

THE *First Treatise*  
Doctrin & Discipline  
*Libris* OF *St. Paul's 344.*  
DIVORCE: *Don.*

Restor'd to the good of both SEXES,  
From the bondage of CANON LAW, and  
other mistakes, to the true meaning of Scrip-  
ture in the Law and Gospel compar'd.

Wherin also are set down the bad consequences of  
abolishing or condemning of Sin, that which the  
Law of God allowes, and Christ abolisht not.

Now the second time revis'd and much augmented,  
In Two BOOKS:  
To the Parliament of England with the Assembly.

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The Author I. M.

*BB-9-47*

Matth. 13. 52.

*Every Scribe instructed to the Kingdome of Heav'n, is like the  
Maister of a house which bringeth out of his treasury things  
new and old.*

Prov. 18. 13.

*He that answereth a matter before he heareth it, it is folly and  
shame unto him.*

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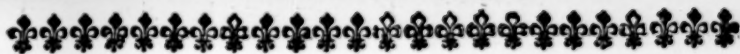
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## To the PARLIAMENT of ENGLAND, with the ASSEMBLY.

**I**F it were seriously askt, and it would be no untimely question, Renowned Parliament, select Assembly, who of all Teachers & Masters that ever have taught, hath drawn the most Disciples after him, both in Religion, and in manners, it might be not unwisely answer'd, Custome. Though vertue be commended for the most perswasive in her Theory; and Conscience in the plain demonstration of the spirit, finds most evincing, yet whether it be the secret of divine wil, or the originall blindness we are born in, so it happ'ns for the most part, that Custome still is silently receiv'd for the best instructor. Except it be, because her method is so glib and easie, in some manner like to that vision of Ezekiel, rowling up her sudden look of implicit knowledge, for him that will, to take and swallow down at pleasure; which proving but of bad nourishment in the concoction, as it was heedlesse in the devouring, puffs up unhealthily, a certain big face of pretended learning, mistaken among credulous men, for the wholesome habit of soundnesse and good constitution; but is indeed no other, then that swollen visage of counterfeit knowledge and literature, which not onely in private mays our education, but also in publick is the common climber into every chaire, where either Religion is preach't, or Law reported: filling each estate of life and profession, with abject and servil principles; depressing the high and Heaven-born spirit of Man, far beneath the condition wherein either God created him, or sin hath sunke him. To persue the Allegory, Custome being but a meer face, as Eccho is a meer voice, rests not in her unaccomplishment, untill by secret inclination, she accorporat her self with error, who being a blind and Serpentine body without a head, willingly accepts what he wants, and supplies what her incompleatnesse went seeking. Hence it is, that Error supports Custome, Custome countenances Error. And these two between them would persecute and chase away all truth and solid wisdom out of humane life, were it not that God, rather then man, once in many ages, calls together the prudent and Religious counsels of Men, deputed to repress the encroachments, and to work off the inveterate blots and obscurities wrought upon our minds by the subtle insinuating of Error and Custome: Who with the numerous and vulgar train of their followers, make it their chief designe to envie and cry-down the industry of free reasoning, under the terms of humor, and innovation; as if the womb of teeming Truth were to be clos'd up, if she presume to bring forth ought, that sorts not with their murther'd notions and suppositions. Against which notorious injury and abuse of mans free soul to testifie and oppose the utmost that study and true labour can attain, heretofore the incitement of

To the Parliament of England,

men reputed grave hath led me among others; and now the duty and the right of an instructed Christian calls me through the chance of good or evil report, to be the sole advocate of a discount'nanc't truth: a high enterprise Lords and Commons, a high enterprise and a hard, and such as every seventh Son of a seventh Son does not venture on. Nor have I amidst the clamor of so much envie and impertinence, whether to appeal, but to the concurrence of so much piety and wisdom her assembly'd. Bringing in my hands an ancient and most necessary, most charitable, and yet most injur'd Statute of Moses: not repeal'd ever by him who only had the authority, but thrown aside with much inconsiderat neglect, under the rubbish of Canonick ignorance: as once the whole Law was by some such like conveyance in Josiabs time. And he who shall endeavour the amendment of any old neglected grievance in Church or State, or in the daily course of life, if he be gifted with abilities of mind that may raise him to so high an undertaking, I grant he hath already much wherof not to repent him; yet let me arreed him, not to be the foreman of any misjudg'd opinion, unlesse his resolutions be firmly seated in a square and constant mind, not conscious to it self of any deserved blame, and regardless of ungrounded suspitions. For this let him be sure he shall be boorded presently by the ruder sort, but not by discreet and well nurur'd men, with a thousand idle descants and surmises. Who when they cannot confute the least jynt or sinew of any passage in the book; yet God forbid that truth should be truth, because they have a boistrous conceit of some pretences in the Writer. But were they not more busie and inquisitive then the Apostle commends, they would bear him at least, rejoycing so the truth be preacht, whether of envie or other pretence whatsoever: For Truth is as impossible to be soild by any outward touch, as the Sun beam. Though this ill hap wait on her nativity, that she never comes into the world, but like a Bastard, to the ignominy of him that brought her forth: till Time the Midwife rather then the mother of Truth, have washt and salted the Infant, declar'd her legitimat, and Church the father of his young Minerva, from the needlesse causes of his purgation. Your selves can best witnesse this, worthy Patriots, and better will, no doubt, hereafter: for who among ye of the formost that have travaill'd in her behalf to the good of Church, or State, hath not been often traduc't to be the agent of his own by-ends, under pretext of Reformation. So much the more I shall not be unjust to hope, that however Infamy, or Envy may work in other men to do her freisfull will against this discourse, yet that the experience of your own uprightness mis-interpreted, will put ye in mind to give it free audience and generous construction. What though the brood of Belial, the drasse of men, to whom no liberty is pleasing, but unbrid'd and vagabond lust without pale or partition, will laugh broad perhaps, to see so great a strength of Scripture mustering up in favour, as they suppose, of their debaucheries; they will know better, when they shall hence learn, that honest liberty is the greatest foe to dishonest licence. And what though others out of a waterish and queasy conscience be  
cause

cause ever crasy and never yet sound, will rail and fancy to themselves, that injury and licence is the best of this Book? Did not the distemper of their own stomachs affect them with a dizzy megrim, they would soon tie up their tongues, and discern themselves like that Assyrian blasphemer all this while reproaching not man but the Almighty, the holy one of Israel, whom they do not deny to have belov'd in his own sacred people with this very allowance, which they now call injury and licence, and dare cry shame on, and will do yet a while, till they get a little cordiall sobriety to settle their qualling zeal. But this question concerns not us perhaps: Indeed mans disposition though prone to search after vain curiosities, yet when points of difficulty are to be discuss'd, appertaining to the removal of unreasonable wrong and burden from the perplext life of our brother, it is incredible how cold, how dull, and far from all fellow feeling we are, without the spur of self-concernment. Yet if the wisdom, the justice, the purity of God be to be cleer'd from foulest imputations which are not yet avoided, if charity be not to be degrad'd and trodd'n down under a civill Ordinance, if Matrimony be not to be advanc'd like that exalted perdition, writ'n of to the Thessalonians, above all that is called God, or goodnesse, nay, against them both, then I dare affirm there will be found in the Contents of this Book, that which may concern us all. You it concerns chiefly, Worthies in Parlament, on whom, as on our deliverers, all our grievances and cares, by the merit of your eminence and fortitude are devolv'd: Me it concerns next, having with much labour and faithfull diligence first found out, or at least with a fearlesse and communicative candor first publisht to the manifest good of Christendome, that which calling to witnesse every thing mortall and immortal, I beleevere unfainedly to be true. Let not other men think their conscience bound to search continually after truth, to pray for enlightning from above, to publish what they think they have so obtain'd, and debar me from conceiving my self ty'd by the same duties. Ye have now, doubtlesse by the favour and appointment of God, ye have now in your hands a great and populous Nation to Reform; from what corruption, what blindness in Religion ye know well; in what a degenerat and fal'n spirit from the apprehension of native liberty, and true manlines, I am sure ye find: with what unbounded licence rushing to whoredoms & adulteries needs not long enquiry: insomuch that the fears which men have of too strict a discipline, perhaps exceed the hopes that can be in others, of ever introducing it with any great success. What if I should tell ye now of dispensations and indulgences, to give a little the reins, to let them play and nibble with the bait a while; a people as hard of heart as that Egyptian Colony that went to Canaan. This is the common doctrine that adulterous and injurious divorces were not condemn'd only, but with eye open allow'd of old for hardness of heart. But that opinion, I trust, by then this following argument hath been well read, will be left for one of the mysteries of an indulgent Antichrist, to farm out incest by, and those his other tributary pollutions. What middle way can be taken then, may some interrupt, if we must neither turn to the right nor to the left, and that the people hate to be reform'd:

To the Parliament of England,

Mark then, Judges and Lawgivers, and ye whose Office it is to be our teachers, for I will utter now a doctrine, if ever any other, though neglected or not understood, yet of great and powerfull importance to the governing of mankind. He who wisely would restrain the reasonable Soul of man within due bounds, must first himself know perfectly, how far the territory and dominion extends of just and honest liberty. As little must he offer to bind that which God hath loos'n'd, as to loos'n that which he hath bound. The ignorance and mistake of this high point, hath beapt up one huge half of all the misery that hath bin since Adam. In the Gospel we shall read a supercilious crew of masters, whose holinesse, or rather whose evil eye, grieving that God should be so facill to man, was to set straiter limits to obedience, then God had set; to inslave the dignity of man, to put a garrison upon his neck of empty and overdignified precepts: And we shall read our Saviour never more griev'd and troubl'd, then to meet with such a peevish madnesse among men against their own freedome. How can we expect him to be lesse offended with us, when much of the same folly shall be found yet remaining where it left ought, to the perishing of thousands. The greatest burden in the world is superstition; not only of Ceremonies in the Church, but of imaginary and scarecrow sins at home. What greater weakning, what more subtle stratagem against our Christian warfare, when besides the grosse body of real transgressions to encounter; we shall be terrif'd by a vain and shadowy menacing of faults that are not: When things indifferent shall be set to over-throw us, under the banners of sin, what wonder if we be routed, and by this art of our Adversary, fall into the subjection of worst and deadliest offences. The superstition of the Papist is, touch not, taste not, when God bids both: and ours is, part not, separat not, when God and charity both permits and commands. Let all your things be done with charity, saith St. Paul: and his Master saith, She is the fulfilling of the Law. Yet now a civil, an indifferent, a sometime dissuaded Law of marriage, must be forc't upon us to fulfill, not onely without charity, but against her. No place in Heav'n or Earth, except Hell, where charity may not enter: yet marriage the Ordinance of our solace and contentment, the remedy of our lonelinessse will not admit now either of charity or mercy to come in and mediate or pacifie the fiercenes of this gentle Ordinance, the unremedied loneliness of this remedy. Advise ye well, Supreme Senat, if charity be thus excluded and expuls't, how ye will defend the untainted honour of your own actions and proceedings: He who maries, intends as little to conspire his own ruine, as he that swears Allegiance: and as a whole people is in proportion to an ill Government, so is one man to an ill marriage. If they against any authority, Covenant, or Statute, may by the soveraign edict of charity, save not only their lives, but honest liberties from unworthy bondage, as well may be against any private Covenant, which he never enter'd to his mischief, redeem himself from unsupportable disturbances to honest peace, and just contentment: And much the rather, for that to resist the highest Magistrat thou gy tyrannizing, God never gave us expresse allowance, only he gave us reason, charity, nature and good example to beate us out; but in this economicall misfortune,

*With the Assembly.*

Fortune thus to demean our selves, besides the warrant of those foure great directors, which doth as justly belong hither, we have an expresse Law of God, and such a law, as wherof our Saviour with a solemn threat forbid the abrogating. For no effect of tyranny can sit more heavy on the Common-wealth, then this household unhappines on the family. And farewell all hope of true Reformation in the State, while such an evil as this lies undiscern'd or unregarded in the house. On the redresse wherof depends, not only the spiritfull and orderly life of our grown men, but the willing, and carefull education of our children. Let this therefore be new examin'd, this tenure and free-hold of mankind, this native and domestick Charter giv'n us by a greater Lord then that Saxon King the Confessor. Let the statutes of God be turn'd over, be scann'd anew, and consider'd; not altogether by the narrow intellectualls of quotationists and common placers, but (as was the ancient right of Counsels) by men of what liberall profession soever, of eminew spirit and breeding jyn'd with a diffuse and various knowledge of divine and human things, able to ballance and define good and evil, right and wrong, throughout every state of life; able to shew us the waies of the Lord, strait & faithfull as they are, not full of cranks and contradictions, and pit falling dispensers, but with divine insight and benignity measur'd out to the proportion of each mind and spirit, each temper and disposition, created so different each from other, and yet by the skill of wise conducting, all to become uniform in vertue. To expedite these knots were worthy a learned and memorable Synod; while our enemies expect to see the expectation of the Church tir'd out with dependencies and independencies how they will compound, and in what Calends. Doubt not, worthy Senators, to vindicate the sacred honour and judgement of Moses your predecessor, from the shallow commenting of Scholasticks and Canonists. Doubt not after him to reach out to your steady hands to the misinform'd and wearied life of man; to restore this his lost heritage, into the household state; wherwith be sure that peace and love, the best subsistence of a Christian family will return home from whence they are now banish'd; places of prostitution will be lesse haunted, the neighbors bedd lesse attempted, the yoke of prudent and manly discipline will be generally submitted to, sober and well order'd living will soon spring up in the Common-wealth. We have an author great beyond exception, Moses; and one yet greater, he who bled in from abolishing, every smallest jot and tittle of precious equity contain'd in that Law, with a more accurat and lasting Masureth, then either the Synagoge of Ezra, or the Galilean School at Tiberias hath left us. Whatev'er else ye can enact, will scarce concern a third part of the Brittain name: but the benefit and good of this your magnanimous example, will easily spread far beyond the banks of Tweed and the Norman Iles. It would not be the first, or second time, since our ancient Druides, by whom this Iland was the Cathedral of Philosophy to France, left off their pagin rites, that England hath had this honour vouchsaf't from Heaven, to give our reformation to the world. Who was it but our English Constantine, that baptiz'd the Rom an Empire? who but the Northumbrian Willibrode, and Winifride of Devon

## To the Parliament of England,

Devon with their followers, were the first Apostles of Germany? who but Alcuin and Wicklef our Country men open'd the eyes of Europe, the one in arts, the other in Religion. Let not England, forget her precedence of teaching nations how to live.

Know, Worthies, know and exercise the privilege of your honour'd Country. A greater title I heer bring ye, then is either in the power or in the policy of Rome to give her Monarchs; this glorious act will stile ye the defenders of Charity. Nor is this yet the highest inscription that wil adorn so religious and so holy a defence as this; behold heer the pure and sacred Law of God, and hit yet purer and more sacred name offering themselves to you first of all Christian reformers to be acquitted from the long suffer'd ungodly attribute of patronizing Adultery. Defer not to wipe off instantly these imputative blurs and stains cast by rude fancies upon the throne and beauty it self of inviolable holines: lest some other people more devout and wise then we, bereave us this offer'd immortal glory, our wonted prerogative, of being the first asserters in every great vindication. For me, as far as my part leads me, I have already my greatest gain, assurance and inward satisfaction to have don in this nothing unworthy of an honest life, and studies wel employ'd. With what event among the wise & right understanding handfull of men, I am secure. But how among the drove of Custom and Prejudice this will be resist, by such whose capacity, since their youth run ahead into the easie creek of a System or a Medulla, sails there at will under the blown physiognomy of their unlabour'd rudiments, for them, what their tast will be, I have also surety sufficient, from the entire league that hath bin ever between formal ignorance and grave obstinacie. Yet when I remember the little that our Saviour could prevail about this doctrine of Charity against the crabbed texuists of his time, I make no wonder, but rest confident that who so preserrs either Mairimony, or other Ordinance before the good of man and the plain exigence of Charity, let him professe Papist, or Protestant, or what he will, he is no better then a Pharise, And understands not the Gospel: whom as a misinterpreter of Christ I openly protest against; and provoke him to the triall of this truth before all the world: and let him bet him him withall how he will soder up the shifting flaws of his angier permissions, his venial and unvenial dispences, wherewith the Law of God pardoning and unpardoning hath bin shamefully branded, for want of heed in glossing to have eluded and baste'd out all Faith and chastity from the marriagebed of that holy seed, with politick and judicall adulteries. I seek not to seduce the simple and illiterat; my errand is to find out the choicest and the learnedst, who have this high gift of wisdom to answer solidly, or to be convinc'd. I crave it from the piety, the learning and the prudence which is hous'd in this place. It might perhaps more fitly have bin writt'n in another tongue; and I had don so, but that the esteem I have of my Countreys judgement, and the love I bear to my native language to serv it first with what I endeavour, made me speak it thus; ere I assay the verdict of outlandish readers. And perhaps also heer I might have ended names; but that the address of these lines chiefly to the Parliament of England might have seem'd ingratifull not to acknowledge by whose Religious care, unwearied watchfulness, courageous and heroick resolutions, I enjoy the peace and studious leisure to remain,

The Honourer and Attendant of their Noble worth and virtues,

John Milton.



# THE DOCTRINE AND DISCIPLINE of DIVORCE;

*Restor'd to the good of both Sexes.*

I. BOOK.

The Preface.

*That Man is the occasion of his owne miseries, in most of those evils which hee imputes to Gods inflicting. The absurdity of our canonists in their decrees about divorce. The Christian imperiall Lawes framed with more Equity. The opinion of Hugo Grotius, and Paulus Fagius: And the purpose in generall of this Discourse.*



Any men, whether it be their fate, or fond opinion, easily perswade themselves, if God would but be pleas'd a while to withdraw his just punishments from us, and to restrain what power either the devill, or any earthly enemy hath to work us woe, that then mans nature would find immediate rest and releasement from all evils. But verily they who think so, if they be such as have a mind large enough to take into their thoughts a generall survey of humane things, would soon prove themselves in that opinion farre deceiv'd. For though it were granted us by divine indulgence

to be exempt from all that can be harmfull to us from without, yet the perversnesse of our folly is so bent, that we should never lin hammering out of our owne hearts, as it were out of a flint, the seeds and sparkles of new misery to our selves, till all were in a blaze againe. And no marvell if out of our own hearts, for they are evill; but even out of those things which God meant us, either for a principall good, or a pure contentment, we are still hatching and contriving upon our selves matter of continuall sorrow and perplexitie. What greater good to man then that revealed rule, whereby God vouchsafes to shew us how he would be worshipt? And yet that not rightly understood, became the cause that once a famous man in *Israel* could not but oblige his conscience to be the sacrificer, or if not, the jaylor of his innocent and onely daughter. And was the cause oft-times that Armies of valiant men have given up their throats to a heathenish enemy on the Sabbath day: fondly thinking their defensive resistance to be as then a thing unlawfull. What thing more instituted to the solace and delight of man then marriage? and yet the mis-interpreting of some Scripture directed mainly against the abusers of the Law for divorce giv'n by *Moses*, hath chang'd the blessing of matrimony not seldome into a familiar and co-inhabiting mischief; at least into a drooping and disconsolate household captivity, without refuge or redemption. So ungovern'd and so wild a race doth superstition run us from one extreame of abused liberty into the other of unmercifull restraint. For although God in the first ordaining of marriage, taught us to what end he did it, in words expresse implying the apt and cheerfull conversation of man with woman, to comfort and refresh him of the evill and solitary life; not mentioning the purpose of generation till afterwards, as being but a secondary end in dignity, though not in necessity; yet now, if any two be but once handed in the Church, and have tasted in any sort the nuptiall bed, let them find themselves never so mistak'n in their dispositions through any error, concealment, or misadventure, that through their different tempers, thoughts, and constitutions, they can neither be to one another a remedy against lonelines; nor live in any union or contentment all their dayes, yet they shall, so they be but sound suitably weapon'd to the least possibility of sensuall injoyment, be made, spight of *antipathy* to sadge together, and combine as they may to their unspeakable wearisomnes and despaire of all sociable delight in the ordinance which God establisheth to that very end. What a calamity is this, and as the wife-man if he



were alive, would sigh out in his owne Phrase, what a *fore evill* is this under the *Sunne*! All which we can referre justly to no other author then the Canon Law and her adherents, not consulting with charitie, the interpreter and guide of our faith, but resting in the meere element of the Text; doubtes by the policy of the devill to make that gracious ordinance become unsupportable, that what with men not flaring to venture upon wedlock, and what with men wearied out of it, all inordinate licence might abound. It was for many ages that marriage lay in disgrace with most of the ancient Doctors, as a work of the flesh, almost a defilement, wholly deny'd to Priests, and the second time dissuaded to all, as he that reads *Tertullian* or *Ierom* may see at large. Afterwards it was brought to Sacramentall, that no adultery or desertion could dissolve it; and this is the sence of our Canon Courts in *England* to this day, but in no other reformed Church els: yet there remains in them also a burden on it as heavie as the other two were disgracefull or Superstitious, and of as much iniquity, crossing a Law not onely writt'n by *Moses*, but character'd in us by nature, of more antiquity and deeper ground then marriage it selfe; which Law is to force nothing against the faultles proprieties of nature: yet that this may be colourably done, our Saviours words touching divorce, are as it were congeal'd into a stony rigor, inconsistent both with his Doctrine and his office, and that which he preacht onely to the conscience, is by Canonically tyranny snatcht into the compulsive censure of a judicall Court; where Laws are impos'd even against the venerable and secret power of natures impression, to love what ever cause be found to loath. Which is a hainous barbarisme both against the honour of marriage, the dignity of man and his soule, the goodnes of Christianitie, and all the humane respects of civilitie. Notwithstanding that some the wisest and gravest among the Christian Emperours, who had about them, to consult with, those of the Fathers then living, who for their learning and holines of life are still with us in great renowne, have made their statutes and edicts concerning this debate, farre more easie and relenting in many necessary cases, wherein the Canon is inflexible. And *Hugo Grotius*, a man of these times, one of the best learned, seems not obscurely to adhere in his perswasion to the equity of those Imperiall decrees, in his notes upon the *Evangelists*, much allaying the outward roughnesse of the Text, which hath for the most part been too immoderately expounded; and excites the diligence of others to inquire further into this question, as contain-

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 ning many points that have not yet been explain'd. Which ever likely to remain intricate and hopelesse upon the suppositions commonly stuck to the authority of *Paulus Fagius*, one so learned and so eminent in *England* once, if it might perswade, would strait acquaint us with a solution of these differences, no lesse prudent then compendions. He in his comment on the *Pentateuch* doubted not to maintain that divorces might bee as lawfully permitted by the Magistrate to Christians, as they were to the Jewes. But becaus he is but brieve, and these things of great consequence not to be kept obscure, I shall conceive it nothing above my duty either for the difficulty or the censure that may passe thereon, to communicate such thoughts as I also have had, and do offer them now in this generall labour of reformation, to the candid view both of Church and Magistrate; especially because I see it the hope of good men, that those irregular and unspirituall Courts have span their utmost date in this Land; and some better course must now be constituted. This therefore shall be the task and period of this discourse to prove, first that other reasons of divorce besides adultery, were by the Law of *Moses*, and are yet to be allow'd by the Christian Magistrate as a peece of justice, and that the words of Christ are not hereby contrariet. Next, that to prohibit absolutely any divorce whatsoever except those which *Moses* excepted, is against the reason of Law, as in due place I shall shew out of *Fagius* with many additions. He therefore who by adventuring, shall be so happy as with successe to light the way of such an expedient liberty and truth as this, shall restore the much wrong'd and over-sorrow'd state of matrimony, not onely to those mercifull and life-giving remedies of *Moses*, but, as much as may be, to that serene and blisfull condition it was in at the beginning; and shall deserve of all apprehensive men, considering the troubles and distempers which for want of this insight have bin so oft in Kingdomes, in States and Families, shall deserve to be reckon'd among the publick benefactors of civill and humane life; above the inventors of wine and oyle; for this is a far dearer, far nobler, and more desireable cherishing to mans life, unworthily expos'd to tadness and mistake, which he shall vindicate. Not that licence and levety and unconscionable and tender pittie might be had of those who have unwarily in a thing they never practiz'd before, made themselves the bondmen of a suckleis and helpless matrimony. In which Argument he whose courage can serve him to give the first on-set, must look

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for two severall oppositions: the one from them who have sworn themselves to long custome and the letter of the Text, will not out of the road: the other from those whose grosse and vulgar apprehensions conceit but low of matrimoniall purposes, and in the work of male and female thinke they have all. Neverthelessse, it shall be here sought by due wayes to be made appeare, that those words of God in the institution, promising a meet help against lonelines; and those words of Christ, *That his yoke is easie and his burden light*, were not spoken in vain; for if the knot of mariage may in no case be dissolv'd but for adultery, all the burd'ns and services of the Law are not so intolerable. This onely is desir'd of them who are minded to judge hardly of thus maintaining, that they would be still and heare all out, nor thinke it equall to answer deliberate reason with sudden heat and noise; remembering this, that many truths now of reverend esteeme and credit, had their birth and beginning once from singular and private thoughts; while the most of men were otherwise possit; and had the fate at first to be generally exploded and exclaim'd on by many violent opposers; yet I may erre perhaps in soothing my selfe that this present truth reviv'd, will deserve on all hands to be not sinisterly receiv'd, in that it undertakes the cure of an inveterate disease crept into the best part of humane societie: and to doe this with no smarting corrosive, but with a smooth and pleasing lesson, which receiv'd hath the vertue to soften and dispell rooted and knotty sorrowes: and without enchantment if that be fear'd, or spell us'd, hath regard at once both to serious pitty, and upright honesty; that tends to the redeeming and restoring of none but such as are the object of compassion; having in an ill houre hamper'd themselves to the utter dispatch of all their most beloved comforts and repose for this lives term. But if we shall obstinately dislike this new overture of unexpected ease and recovery, what remains but to deplore the frowardnes of our hopeles condition, which neither can endure the estate we are in, nor admit of remedy either sharp or sweet. Sharp we our selves distast; and sweet, under whose hands we are, is scrupl'd and suspected as too luscious. In such a posture Christ found the *Jewes*, who were neither won with the austerity of *John the Baptist*, and thought it too much licence to follow freely the charming pipe of him who sounded and proclaim'd liberty and reliefe to all distresses: yet Truth in some age or other will find her witnes, and shall be justify'd at last by her own children.

## CHAP. I.

*The position. Prov'd by the Law of Moses. That Law expounded and asserted to a morall and charitable use, first by Paulus Fagius, next with other additions.*

**T**O remove therefore if it be possible, this great and sad oppression which through the strictnes of a literall interpreting hath invaded and disturb'd the dearest and most peaceable estate of household society, to the over-burdening, if not the over-whelming of many Christians better worth then to be so deserted of the Churches considerate care, this position shall be laid down, first proving, then answering what may be objected either from Scripture or light of reason.

*That indisposition, unfitness, or contrariety of mind, arising from a cause in nature unchangeable, hindring and ever likely to hinder the main benefits of conjugall society, which are solace and peace, is a greater reason of divorce then naturall frigidity, especially if there be no children, and that there be mutuall consent.*

This I gather from the Law in Deut. 24.1. *When a man hath tak'n a wife & married her, & it come to passe that she find no favour in his eyes, because he hath found some uncleanesse in her, let him write her a bill of divorcement, and give it in her hand, & send her out of his house, &c.* This Law, if the words of Christ may be admitted into our beleef, shall never while the world stands, for him be abrogated. First therefore I here set down what learned Fagius hath observ'd on this Law; *The Law of God, saith he permitted divorce for the help of human weaknes. For every one that of necessity seperats, cannot live single. That Christ deny'd divorce to his own, hinders not; for what is that to the unregenerate, who hath not attain'd such perfection? Let not the remedy be despis'd which was giv'n to weaknes. And when Christ saith, who maries the divorc'd commits adultery, it is to be understood if he had any plot in the divorce.* The rest I reserve untill it be disputed, how the Magistrate is to doe herein. From hence we may plain'y discern a twofold consideration in this Law. First the end of the Lawgiver, and the proper act of the Law to command or to allow something just and honest, or indifferent. Secondly, his sufferance from some accidental result of evill by this allowance, which the Law cannot remedy. For if this Law have no other end or act but onely the allowance of a sin, though never to so good intention, that Law is no Law but sin must'd in the robe of Law, or Law disguis'd in the loose garment of sin. Both which a c

too foule Hypotheses to save the Phenomenon of our Saviours answer to the Pharisees about this matter. And I trust anon by the help of an infallible guide to perfect such *Prutenick* tables as shall mend the *Astronomy* of our wide expositors.

The cause of divorce mention'd in the Law is translated *some uncleannesse*; but in the Hebrew it sounds *nakednes of ought, or any reall nakednes*; which by all the learned interpreters is refer'd to the mind, as well as to the body. And what greater nakednes or unfitness of mind then that which hinders ever the solace and peacefull society of the married couple, and what hinders that more then the unfitness and defectiveness of an unconjugall mind. The cause therefore of divorce express'd in the position cannot but agree with that describ'd in the best and equallest sense of *Moses* Law. Which being a matter of pure charity, is plainly morall, and more now in force then ever: therefore sure'y lawfull. For if under the Law such was Gods gracious indigence, as not to suffer the ordinance of his goodnesse and favour, through any error to be ser'd and stigmatiz'd upon his servants to their misery and thraldome, much lesse will he suffer it now under the covenant of grace, by abrogating his former grant of remedy and relief. But the first institution will be objected to have ordain'd marriage unseperable. To that a little patience untill this first part have amply discours'd the grave and pious reasons of this divorfive Law; and then I doubt not but with one gentle stroking to wipe away ten thousand teares out of the life of man. Yet thus much I shall now insist on, that what ever the institution were, it could not be so enormous, nor so rebellious against both nature and reason as to exalt it selfe above the end and person for whom it was instituted.

## CHAP. II.

*The first reason of this Law grounded on the prime reason of matrimony. That no cov'nant whatsoever obliges against the main end both of it self and of the parties cov'nantsing.*

**F**Or all sense and equity reclaims that any Law or Cov'nant how solemne or strait soever, either between God and man, or man and man, though of Gods joyning, should bind against a prime and principall scope of its own institution, and of both or either Party.

cov'nanting : neither can it be of force to ingage a blameless creature to his owne perpetuall sorrow, mistak'n for his expected solace, without suffering charity to step in and doe a conſeſt good work of parting thoſe whom nothing holds together, but this of Gods joyning, faſſly ſuppos'd againſt the expreſſe end of his own ordinance. And what his chiefe end was of creating woman to be joyn'd with man, his own inſtituting words declare, and are infallible to informe us what is marriage and what is no marriage : unleſſe we can think them ſet there to no purpoſe : *It is not good, ſaith he, that man ſhould be alone; I will make him a help meet for him.* From which words ſo plain, leſſe cannot be concluded, nor is by any learned Interpreter, then that in Gods intention a meet and happy converſation is the chiefeſt and the nobleſt end of marriage : for we find here no expreſſion ſo neceſſarily implying carnall knowledge, as this prevention of ſoleneſſe to the mind and ſpirit of man. To this, *Fagius, Calvin, Pareus, Rivetus,* all willingly and largely aſſent as can be wiſht. And indeed it is a greater bleſſing from God, more worthy ſo excellent a creature as man is, and a higher end to honour and ſanctifie the league of marriage when as the ſolace and ſatisfaction of the mind is regarded and provided for before the ſenſitive pleaſing of the body. And with all generous perſons married thus it is, that where the mind and perſon pleaſes aptly, there ſome unaccompliſhment of the bodies delight may be better born with, then when the mind hangs off in an uncloſing diſproportion, though the body be as it ought ; for there all corporall delight will ſoone become unſavoury and contemptible. And the ſolitarines of man, which God had namely and principally order'd to prevent by marriage, hath no remedy, but lies under a worſe condition then the ſoleneſt ſingle life ; for in ſingle life the abſence and remotenes of a helper might inure him to expect his own comforts out of himſelfe or to ſeek with hope ; but here the continuall ſight of his deluded thoughts without cure, muſt needs be to him, if eſpecially his complexion incline him to melancholy, a dayly trouble and paine of loſſe in ſome degree like that which Reprobites fee. Leſt therefore ſo noble a creature as man ſhould be ſhut up incurably under a worſe evil by an eaſie miſtake in that ordinance which God gave him to remedy a leſſe evil, reaping to himſelfe ſorrow while he went to rid away ſolitarineſſe, it cannot avoid to be concluded, that if the woman be naturally ſo of diſpoſition, as will not help to remove, but help to increaſe that ſame God forbidd'n ſoleneſſe which will in time draw on with it a generall



nerall discomfort and dejection of mind, not beſeeming either Chriſtian profeſſion or morall converſation, unprofitable and dangerous to the Common-wealth, when the houſhold eſtate, out of which muſt flouriſh forth the vigor and ſpirit of all publicke enterprizes, is ſo ill contented and procur'd at home, and cannot be ſupported; ſuch a marriage can be no marriage whereto the moſt honeſt end is wanting: and the agrieved perſon ſhall doe more manly, to be extraordinary and ſingular in claiming the due right whereof he is fruſtrated, then to piece up his loſt contentment by viſiting the Stews, or ſtepping to his neighbours bed, which is the common ſhift in this miſfortune; or els by ſuffering his uſeſull life to waſt away, and be loſt under a ſeeret affliction of an unconſcionable ſize to humane ſtrength. / Againſt all which evils the mercy of this Moſaick Law was graciouſly exhibited.

### CHAP. III.

*The ignorance and iniquity of Canon Law, providing for the right of the body in marriage, but nothing for the wrongs & grievances of the mind. An objection, that the mind ſhould be better lookt to before contract, answered.*

**H**OW vaine therefore is it, and how prepoſterous in the Canon Law to have made ſuch careſull provision againſt the impediment of carnall performance, and to have had no care about the unconverſing inability of mind, ſo defective to the pureſt and moſt ſacred end of matrimony: and that the veſſell of voluptuous enjoyment muſt be made good on him that has taken it upon truſt without any caution, when as the mind from whence muſt flow the acts of peace and love, a farre more pretious mixture then the quinteſſence of an excrement, though it be found never ſo deficient and unable to performe the beſt duty of marriage in a cheertull and agreeable converſation, ſhall be thought good enough, however flat and melancholious it be, and muſt ſerve, though to the eternall diſturbance and languiſhing of him that complains him. Yet wiſdome and charity waighing Gods owne inſtitution, would thinke that the pining of a ſad ſpirit wedded to lonelines ſhould deſerve to be freed, as well as the impatience of a ſenſuall deſire to preſently relieve'd. This read to us in the Liturgy, that we muſt not marry, to ſatiſfie the fleſhly appetite, like brute beaſts that have no underſtanding; but the

the Canon so runs, as if it dreamt of no other matter then such an appetite to be satisfy'd; for if it happen that nature hath slept or extinguish't the veins of sensuality, that marriage was annull'd. But though all the faculties of the understanding and conversing part after triall appeare to be so ill and so averily met through natures unalterable working, as that neither peace, nor any sociable contentment can follow, 'tis as nothing, the contract shall stand as firme as ever, beside what will. What is this but secretly to instruct us, that however many grave reasons are pretended to the married life, yet that nothing indeed is thought worth regard therein, but the prescrib'd satisfaction of an irrational heat; which cannot be but ignominious to the state of marriage, dishonourable to the undervalu'd soule of man, and even to Christian Doctrine it selfe. While it seems more mov'd at the disappointing of an impetuous nerve, then at the ingenuous grievance of a mind unreasonably yoked; and to place more of marriage in the channell of concupiscence, then in the pure influence of peace and love, whereof the soules lawfull contentment is the one onely fountain.

But some are ready to object, that the disposition ought seriously to be consider'd before. But let them know againe, that for all the warinesse can be us'd, it may yet befall a discreet man to be mistak'n in his choice, and we have plenty of examples. The sobrest and best govern'd men are least practiz'd in these affairs; and who knowes not that the bashfull muteness of a virgin may oft-times hide all the unlivelyness and naturall sloth which is really unfit for conversation; nor is there that freedom of access granted or presum'd, as may suffice to a perfect discerning till too late: and where any disposition is suspected, what more usuall then the perswasion of friends, that acquaintance, as it increases, will amend all. And lastly, it is not strange though many who have spent their youth chastly, are in some things not so quick-sighted, while they hast so eagerly to light the nuptiall torch; nor is it therefore that for a modest error a man should forfeit so great a happinesse, and no charitable means to release him. Since they who have liv'd most loosely by reason of their bold accustoming, prove most succesfull in their matches, because their wild affections unsetling at will, have been as so many d'vorces to teach them experience. When as the sober man honouring the appearance of modesty, and hoping well of every sociall vertue under the veile, may easily chance to meet, if not with a body impenetrable, yet often with a mind to all other due conversation



sation inaccessibell, and to all the more estimable and superior purposes of matrimony uselesse and almost livelesse: and what a solace, what a fit helpe such a consort would be through the whole life of a man, is lesse pain to conjecture then to have experience,

### CHAP. III.

*The Second Reason of this Law, because without it, marriage as it happens is not a remedy of that which it promises, as any rational creature would expect. That marriage, if we pattern from the beginning as our Saviour bids, was not properly the remedy of lust, but the fulfilling of conjugal love and helpfulness.*

**A**ND that we may further see what a violent cruell thing it is to force the continuing of those together, whom God and nature in the gentlest end of marriage never joyn'd, divers evils and extremities that follow upon such a compulsion, shall here be set in view. Of evils the first and greatest is, that hereby a most absurd and rash imputation is fixt upon God and his holy Laws, of conniving and dispensing with open and common adultery among his chosen people; a thing which the rankest politician would thinke it shame and disworship, that his Laws should countenance; how and in what manner this comes to passe, I shall reserve, till the course of method brings on the unfolding of many Scriptures. Next the Law and Gospell are hereby made liable to more then one contradiction, which I referre also thither. Lastly, the supreme duty of charitie is hereby many wayes neglected and violated. Which I shall forthwith addresse to prove. First we know St. Paul saith, *It is better to marry thee to burne.* Marriage therefore was given as a remedy of that trouble: but what might this burning meane? Certainly not the meere motion of carnall lust, not the meere goad of a sensitive desire; God does not principally take care for such cattell. What is it then but that desire which God put into Adam in Paradise before he knew the sin of incontinence; that desire which God saw it was not good that man should be left alone to burne in, the desire and longing to put off an unkindly solitariness by uniting another body, but not without a fit soule to his in the cheerfull society of wedlock. Which if it were so needfull before the fall, when man was much more perfect in himselfe, how much more is it needfull now

against all the sorrows and casualties of this life to have an intimate and speaking helpe, a ready and reviving associate in marriage: whereof who misse by chancing on a mute and spiritlesse mate, remains more alone then before, and in a burning lesse to be contain'd then that which is fleshly and more to be consider'd; as being more deeply rooted even in the faultles innocence of nature. As for that other burning, which is but as it were the venom of a lusty and over-abounding concoction, strict life and labour, with the abatement of a full diet may keep that low and obedient enough: but this pure and more inbred desire of joying to it selfe in conjugall fellowship a fit conversing soule (which desire is properly call'd love) is stronger then death, as the spouse of Christ thought, *many waters cannot quench it, neither can the floods drown it.* This is that rationall burning that marriage is to remedy, not to be allay'd with fasting, nor with any penance to be subdu'd, which how can he assuage who by mis-hap hath met the most unmeeteft and unfutable mind? Who hath the power to struggle with an intelligible flame, not in paradise to be resisted, become now more ardent by being fail'd of what in reason it looks for; and even then most unquench't, when the importunity of a provender burning is well enough appeas'd; and yet the soul hath obtained nothing of what it justly desires. Certainly such a one forbidden to divorce, is in effect forbid'n to marry, and compell'd to greater difficulties then in a single life; for if there be not a more humane burning which marriage must satisfie, or els may be dissolv'd, then that of copulation, marriage cannot be honourable for the meet reducing and terminating lust between two: seeing many beasts in voluntary and chosen couples, live together as unadulterously, and are as truly married in that respect. But all ingenious men will see that the dignity and blessing of marriage is plac'd rather in the mutual enjoyment of that which the wanting soul needfully seeks, then of that which the penceous body would joyfully give away. Hence it is that *Plato* in his festival discourse brings in *Socrates* relating what he said to have learnt from the Prophetesse *Diotima*, how Love was the sonne of *Pennury*, begot of *Plenty* in the garden of *Jupiter*. Which divinely sorts with that which in effect *Moses* tells us, that Love was the son of *Lonelines*, begot in *Paradise* by that sociable and helpfull aptitude which God implanted between man and woman toward each other. The same also is that burning mention'd by *S. Paul* whereof marriage ought to be the remedy; the Flesh hath other manuell and easie curbs which are in the power of any temperate

rate man. When therefore this originall and sinles *Pentury* or *Loveliness* of the soule cannot lay it selfe downe by the side of such a meet and acceptable union as God ordain'd in marriage, at least in some proportion, it cannot conceive and bring forth *Love*, but remains utterly unmarried under a formall wedlock and still burnes in the proper meaning of *S. Paul*. Then enters *Hate*, not that Hate that sins, but that which onely is naturall dissatisfaction and the turning aside from a mistaken object: if that mistake have done injury, it fails not to dilimise with recompence; for to retain still, and not be able to love, is to heap up more injury. Thence this wife and pious Law of dismissal now defended tooke beginning: He therefore who lacking of his due in the most native and humane end of marriage, thinks it better to part then to live sadly and injuriously to that cheerefull covenant (for not to be belov'd and yet retain'd is the greatest injury to a gentle spirit) he I say who therefore seeks to part, is one who highly honours the married life and would not slayn it: and the reasons which now move him to divorce, are equal to the best of those that could first warrant him to marry; for, as was plainly shewn, both the hate which now diverts him and the loneliness which leads him still powerfully to seeke a fir helpe, hath not the least grain of a sin in it, if he be worthy to understand himselfe.

## CHAP. V.

*The third reason of this Law, because without it, he who has happ'd where he finds nothing but remediles offences and discontents, is in more and greater temptations then ever before.*

**T**Hirdly, Yet it is next to be fear'd, if he must be still bound without reason by a deafe rigor, that when he perceives the just expectation of his mind defeated, he will begin even against Law to cast about where he may find his satisfaction more compleat, unless he be a thing heroycally vertuous, and that are not the common lamp of men for whom chiefly the Laws ought to be made, though not to their sins yet to their unfinning weaknesses, it being above their strength to endure the lonely estate, which while they stand, they are fall'n into. And yet there follows upon this a worse temptation; for if he be such as hath spent his youth unblamably and layd up his chiefest earthly comforts in the enjoyment of a contented marriage, nor did neglect that funderance which was to be obtain'd therein by constant prayers, when he shall find himselfe bound fast to

an uncomplying discord of nature, or, as it oft happens, to an image of earth and Beame, with whom he lookt to be the copartner of a sweet and glad some society and sees withall that his bondage is now inevitable, though he be almost the strongest Christian, he will be ready to dispaire in vertue, and mutin against divine providence: and this doubtles is the reason of those lapies and that melancholly despaire which we see in many wedded persons, though they understand it not, or pretend other causes, because they know no remedy, and is of extreame danger; therefore when human frailty surcharg'd, is at such a losse, charity ought to venture much, and use bold physick, lest an over-toft faith indanger to shipwrack.

#### CHAP. VI.

*The Fourth Reason of this Law, that God regards Love and Peace in the family, more then a compulsive performance of marriage, which is more broke by a grievous continuance, then by a needfull divorce.*

**F**ourthly, Mariage is a cov'nant the very beeing whereof consists, not in a forc't cohabitation, and counteriet performance of duties, but in unfained love and peace. And of matrimoniall love no doubt but that was chiefly meant, which by the ancient Sages was thus parabl'd, That Love, if he be not twin-born, yet hath a brother wondrous like him, call'd *Anteros*: whom while he seeks all about, his chance is to meet with many fals and faining Desires that wander singly up and down in her likenes. By them in their borrow'd garb, Love though not wholly blind, as Poets wrong him, yet having but one eye, as being born an Archer aiming, and that eye not the quickest in this dark region herebelow, which is not Loves proper sphere, partly out of the simplicity, and credulity which is native to him, often deceiv'd, imbraces and consorts him with these obvious and saborned striplings, as if they were his Mothers own Sons, for so he thinks them, while they suttly keepe themselves most on his blind side. But after a while, as his manner is, when soaring up into the high Tower of his *Apogee*, above the shadow of the earth, he darts out the direct rayes of his then most piercing eyesight upon the impostures, and trim disguises that were us'd with him, and discerns that this is not his genuin brother, as he imagin'd, he has no longer the power to hold fellowship with such a personall mate. For strait his arrows loose their golden heads, and shed their purple feathers, his silk'n breades untwine, and slip their knots, and that originall and fire vertue giv'n him by Fate, all on a sudden goes out and leaves him unde-

undeifi'd and despoil'd of all his force : till finding *Anteros* at last, he kindles and repairs the almost faded ammunition of his Deity by the reflection of a coequal & *homogeneous* fire. Thus mine author sung it to me; and by the leave of those who would be counted the only grave ones; this is no meer amatorious novel (though to be wise and skilful in these matters, men heretofore of greatest name in vertue, have esteem'd it one of the highest arts that human contemplation circling upwards, can make from the globy sea whereon she stands) but this is a deep and serious verity, shewing us that Love in marriage cannot live nor subsist unless in be mutual; and where love cannot be, there can be left of wedlock nothing, but the empty husk of an outside matrimony; as undelightfull and unpleasing to God, as any other kind of hypocrisy. So farre is his command from tying men to the observance of duties which there is no help for, but they must be dissimul'd. If *Salomons* advice be not overstroick, *Love joyfully, saith he, with the wife whom thou lovest, all thy dayes, for that is thy portion.* How then, where we finde it impossible to rejoyce or to love, can we obey this precept? how miserably do we defraud our selves of that comfortable portien which God gives us, by striving vainly to glue an error together which God and nature will not joyn; adding but more vexation and violence to that blisfull society by our importunate superstition, that will not hearken to *St. Paul, 1 Cor. 7.* who speaking of marriage and divorce, determines plain enough in generall, that God therein hath call'd us to peace and not to bondage. Yea God himself commands in his Law more then once, and by his Prophet *Malachy*, as *Calvin* and the best translations read, that he who hates let him divorce; that is he who cannot love: hence is it that the Rabbins and *Maimonides* famous among the rest in a Book of his set forth by *Buxtorfius*, tells us, that *Divorce was permitted by Moses to preserve peace in marriage, and quiet in the family.* Surely the Jews had their saving peace about them, as well as we, yet care was tak'n that this wholsom provision for household peace should also be allow'd them; and must this be deny'd to Christians? O perversnes! that the Law should be made more provident of peace-making then the Gospell! that the Gospell should be put to beg a most necessary help of mercy from the Law but must not have it: and that to grind in the mill of an undelighted and servil copulation, must be the only forc't work of a Christian marriage, oft times with such a yokefellow, from whom both love and peace, both nature and Religion mourns to be separated. I cannot therefore be so dissident, as not securely to conclude, that

that he who can receive nothing of the most important helps in marriage, being thereby disinabl'd to returne that duty which is his, with a cleare and hearty countenance; and thus continues to grieve whom he would not, and is no lesse griev'd, that man ought even for loves sake and peace to move Divorce upon good and liberall conditions to the divorce't. And it is a lesse breach of wedlock to part with wife and quiet content beimes, then still to soile and profane that mystery of joy and union with a polluting sadnesse and perpetuall distemper; for it is not the outward continuing of marriage that keepes whole that covenant, but whosoever does most according to peace and love, whether in marriage or in divorce, he it is that breaks marriage least; it being so often written, that *Love onely is the fulfilling of every Commandment.*

## CHAP. VII.

*The Fifth Reason that nothing more hinders and disturbs the whole life of a Christian, then a matrimony found to be incurably unfit, and doth the same in effect that an idolatrous match.*

**F**ifthly, as those Priests of old were not to be long in sorrow, or if they were, they could not rightly execute their function; so every true Christian in a higher order of Priesthood is a person, dedicate to joy and peace, offering himselfe a lively sacrifice of praise and thanksgiving, and there is no Christian duty that is not to be season'd and set off with cheerfulness; which is a thousand outward and intermitting crosses may yet be done well as in this vale of teares, but in such a bolome affliction as this, crushing the very foundation of his inmost nature when he shall be forc't to love against a possibility, and to use a dissimulation against his soule in the perpetuall and ceaselesse duties of a husband doubtlesse his whole duty of serving God must needs be blur'd and tainted with a sad unpreparednesse and dejection of spirit, wherein God has no delight. Who sees not therefore how much more Christianity it would be to breake by divorce that which is more broken by undue and forcible keeping, rather then to cover the Altar of the Lord with continuall teares so that he regardeth not the offering any more, rather then that the whole worship of a Christian mans life should languish and fade away beneath the weight of an immense able griefe and discouragement. And because some think the child's of a second matrimony succeeding a divorce would not be a holy seed it hinder'd not the Jews from being so, and why should we not thinke them more holy then the offspring of



of a former ill-twisted wedlock, begott'n only out of a bestial necessity without any true love or contentment, or joy to their parents, so that in some sense we may call them the *children of wrath* and anguish, which will as little conduce to their sanctifying, as if they had been bastards; for nothing more then disturbance of mind suspends us from approaching to God. Such a disturbance especially as both assaults our faith and trust in Gods providence, and ends, if there be not a miracle of vertue on either side, not onely in bitterness & wrath, the canker of devotion, but in a desperate and vitious carelesnesse; when he sees himself without fault of his, train'd by a deceitfull bait into a snare of misery, betrai'd by an alluring ordinance, and then made the thrall of heaviness and discomfort by an undivorting Law of God, as he erroneously thinks, but of mans iniquitie, as the truth is; for that God prefers the free and cheerfull worship of a Christian, before the grievous and exacted observance of an unhappy marriage, besides that the generall maxims of Religion assure us, will be more manifest by drawing a parallell argument from the ground of divorcing an Idolatresse, which was, lest he should alienate his heart from the true worship of God: and what difference is there whether she pervert him to superstition by her inticing sorcery, or disuaine him in the whole service of God through the disturbance of her unhelpfull and unfit society; and so drive him at last through murmuring and despair to thoughts of Atheisme; neither doth it lessen the cause of separating in that the one willingly allures him from the faith, the other perhaps unwillingly drives him; for in the account of God it comes all to one that the wife looses him a servant; and therefore by all the united force of the *Decalogue* she ought to be disbanded, unlesse we must set marriage above God and charity, which is a doctrine of devils no lesse then forbidding to marry.

# CHAP. VIII.

*That an idolatrous Heretick ought to be divorc't after a convenient space given to hope of conversion. That place of Corinth. 7. restor'd from a twofold erroneous exposition, and that the common expositors flatly contradict the morall Law.*

**A**Nd here by the way to illustrate the whole question of divorce, ere this treatise end, I shall not be loath to spend a few lines in hope to give a full resolve of that which is yet so much controverted, whether an idolatrous heretick ought to be divorc't. To the re-

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solving whereof we must first know that the *Jews* were commanded to divorce an unbelieving Gentile for two causes: first, because all other Nations, especially the *Canaanites* were to them unclean. Secondly, to avoid seducement. That other Nations were to the *Jews* impure, even to the separating of marriage, will appear out of *Exod.* 34. 16. *Deut.* 7. 3. 6. compar'd with *Ezra* 9. 2. also *Chap.* 10. 10, 11. *Nehem.* 13. 30. This was the ground of that doubt rais'd among the *Corinthians* by some of the Circumcision; Whether an unbeliever were not still to be counted an unclean thing, so as that they ought to divorce from such a person. This doubt of theirs *S. Paul* removes by an Evangelicall reason, having respect to that vision of *S. Peter*, wherein the distinction of clean and unclean being abolisht, all living creatures were sanctified to a pure and Christian use, and mankind especially, now invited by a generall call to the covenant of grace. Therefore saith *S. Paul*, *The unbelieving wife is sanctify'd by the husband*; that is, made pure and lawfull to his use; so that he need not put her away for fear lest her unbelief should defile him; but that if he found her love still towards him, he might rather hope to win her. The second reason of that divorce was to avoid seducement, as is prov'd by comparing those places of the Law, to that which *Ezra* and *Nehemiah* did by divine warrant in compelling the *Jews* to forgo their wives. And this reason is moral and perpetuall in the rule of Christian faith without evasion. Therefore saith the Apostle *2 Cor.* 6. *Mis-yoke not together with infidels*, which is interpreted of marriage in the first place. And although the former legall pollution be now don off, yet there is a spirituall contagion in Idolatry as much to be shun'd; and though seducement were not to be fear'd, yet where there is no hope of converting, there alwayes ought to be a certain religious averfation and abhorring, which can no way sort with marriage. Therefore saith *S. Paul*, *What fellowship hath righteousness with unrighteousnesse? what communion hath light with darknes? what concord hath Christ with Belial? what part hath he that beleeveth with an infidel?* And in the next verse but one he moralizes and makes us liable to that command of *Isaiah*, *Wherefore come out from among them, and be ye separate*, saith the Lord, *touch not the unclean thing, and I will receive ye.* And this command thus Gospelliz'd to us, hath the same force with that wheron *Ezra* grounded the pious necessity of divorcing. Neither had he other commiſſion for what he did, then such a generall command in *Deut.* as this, nay not so direct as this; for he is bid there not to marry, but not bid to divorce, and yet



yet we see with what a zeal and confidence he was the author of a generall divorce between the faithfull and unfaithfull seed. The Gospel is more plainly on his side according to three of the Evangelists, then the words of the Law; for where the case of divorce is handled with such a severity as was fittest to aggravate the fault of unbounded licence; yet still in the same chapter when it comes into question afterwards whether any civill respect, or naturall relation which is dearest, may be our plea to divide, or hinder, or but delay our duty to religion, we hear it determin'd that father and mother, and wife also is not only to be hated, but forsak'n, if we mean to inherit the great reward there promis'd. Nor will it suffice to be put off by saying, we must forsake them only by not consenting or not complying with them, for that were to be don, and roundly too, though being of the same faith they should but seek, out of a fleshly tendernes to weak'n our Christian fortitude with worldly perswasions, or but to unsettle our constancie with timorous and softning suggestions: as we may read with what a vehemence *Job* the patientest of men, rejected the desperate counsels of his wife; and *Moses* the meekest being thoroughly offended with the prophane speeches of *Zippora*, sent her back to her father. But if they shall perpetually at our elbow seduce us from the true worship of God, or defile and daily scandalize our conscience by their hopeles continuance in misbelief, then ev'n in the due progresse of reason, and that ever-equall proportion which justice proceeds by, it cannot be imagin'd that this cited place, commands lesse then a totall and finall separation from such an adherent; at least that no force should be us'd to keep them together: while we remember that God commanded *Abraham* to send away his irreligious wife and her son for the offences which they gave in a pious family. And it may be guest that *David* for the like cause dispos'd of *Michael* in such a sort, as little differ'd from a dismissal. Therefore against reiterated scandals and seducements which never cease, much more can no other remedie or retirement be found but absolute departure. For what kind of matrimony can that remain to be, what one dutie between such can be perform'd as it should be from the heart, when their thoughts and spirits flie asunder as farre as heaven from hell; especially if the time that hope should send forth her expected blossoms be past in vain. It will easily be true that a father or brother may be hated zealously, and lov'd civilly or naturally; for those duties may be perform'd at distance, and do admit of any long absence:

but how the peace and perpetuall cohabitation of marriage can be kept, how that benevolent and intimate communion of body can be held with one that must be hated with a most operative hatred, must be forsak'n and yet continually dwell with and accompanied, he who can distinguish, hath the gift of an affection very odly divided and contriv'd : while others both just and wise, and *Solomon* among the rest, if they may not hate and forsake as *Moses* enjoyns, and the Gospel imports, will find it impossible not to love otherwise then will fort with the love of God, whose jealousie brooks no corrivall. And whether is more likely, that Christ bidding to forsake wife for religion, meant it by divorce as *Moses* meant it, whose Law grounded on morall reason, was both his office and his essence to maintain, or that he should bring a new morality into religion, not only new, but contrary to an unchangeable command, and dangerously derogating from our love and worship of God. As if when *Moses* had bid divorce absolutely, and Christ had said, hate and forsake, and his Apostle had said, no communion with Christ and *Belial*, yet that Christ after all this could be understood to say, divorce not, no not for religion, seduce, or seduce not. What mighty and invilible Remora is this in matrimony able to demur, and to contemne all the divorfive engines in heaven or earth. Both which may now passe away if this be true, for more then many jots or tittles, a whole morall Law is abolisht. But if we dare beleve it is not, then in the method of religion, and to save the honour and dignity of our faith, we are to retreat, & gather up our selves from the observance of an inferior and civill ordinance, to the strict maintaining of a general and religious command, which is written, *Thou shalt make no cov'nant with them*, Deut. 7. 2. 3. and that cov'nant which cannot be lawfully made, we have directions and examples lawfully to dissolve. Also Chron. 2. 19. *Shouldst thou love them that hate the Lord?* No doubtlesse : for there is a certain scale of duties, there is a certain Hierarchy of upper and lower commands, which for want of studying in right order, all the world is in confusion.

Upon these principles I answer, that a right beleever ought to divorce an idolatrous heretick, unlesse upon better hopes: however that it is in the beleivers choice to divorce or not.

The former part will be manifest thus; first, an apostate idolater whether husband or wife seducing was to die by the decree of God, *Deut. 13. 6. 9.* that marriage therefore God himself disjoyns: for others born idolaters the morall reason of their dangerous keeping, and the  
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incommunicable antagony that is between Christ and *Belial*, will be sufficient to enforce the commandment of those two inspir'd reformers, *Ezra* and *Nehemiah*, to put an Idolater away as well under the Gospel.

The latter part, that although there be no seducement fear'd, yet if there be no hope giv'n, the divorce is lawful, will appear by this, that idolatrous marriage is still hatefull to God; therefore still it may be divorc'd by the patern of that warrant that *Ezra* had; and by the same everlasting reason: Neither can any man give an account wherefore, if those whom God joyns, no man may separate, it should not follow, that, whom he joyns not, but hates to joyn, those man ought to separate. But saith the Lawyer, that which ought not have been don, once don, avails. I answer, this is but a crotchet of the Law, but that brought against it, is plain Scripture. As for what Christ spake concerning divorce, tis confest by all knowing men, he meant onely between them of the same faith. But what shall we say then to *S. Paul*, who seems to bid us not divorce an Infidell willing to stay? We may safely say thus; that wrong collections have been hitherto made out of those words by modern Divines. His drift, as was heard before, is plain: not to command our stay in marriage with an Infidell, that had been a flat renouncing of the religious and morall Law; but to inform the *Corinthians* that the body of an unbeliever was not defiling, if his desire to live in Christian wedlock shewd any likelihood that his heart was opening to the faith: and therefore advises to forbear departure so long, til nothing have been neglected to set forward a conversion: this I say he advises, and that with certain cautions; not commands: If we can take up so much credit for him, as to get him beleev'd upon his own word; for what is this els but his counsell in a thing indifferent, *to the rest speak I, not the Lord*; for though it be true that the Lord never spake it, yet from *S. Paul's* mouth we should have took it as a command, had not himselfe forwarnd us, and disclaim'd; which, notwithstanding if we shall still avouch to be a command, he palpably denying it, this is not to expound *S. Paul*, but to out-face him. Neither doth it follow, but that the Apostle may interpose his judgement in a case of Christian liberty without the guilt of adding to Gods word. How do we know marriage or single life to be of choice, but by such like words as these, *I speak this by permission, not of commandment, I have no command of the Lord, yet I give my judgement*. Why shall not the like words have leave to signifie a freedom in this our present

question, though *Beza* deny. Neither is the Scripture hereby lesse inspired because *S. Paul* confesses to have writt'n therein what he had not of command; for we grant that the Spirit of God led him thus to expresse himself to Christian prudence in a matter which God thought best to leave uncommanded. *Beza* therefore must be warily read when he taxes *S. Austine* of blasphemy for holding that *S. Paul* spake heer as of a thing indifferent. But if it must be a command, I shall yet the more evince it to be a command that we should herein be left free: and that out of the Greek word us'd in the 12. v. which instructs us plainly, there must be a joynt assent and good liking on both sides; he that will not deprave the Text, must thus render it; *If a brother have an unbelieving wife, and she joyn in consent to dwell with him* (which cannot utter lesse to us then a mutuall agreement) let him not put her away for the meer surmise of Judaicall uncleannes: and the reason follows, for the body of an infidell is not polluted, neither to benevolence, nor to procreation. Moreover, this note of mutuall complacencie forbids all offer of seducement; which to a person of zeal cannot be attempted without great offence: if therefore seducement be fear'd, this place hinders not divorce. Another caution was put in this supposed command, of not bringing the beleever into bondage hereby, which doubtles might prove extreme, if Christian liberty and conscience were left to the humor of a pagan staying at pleasure to play with, and to vex and wound with a thousand scandals and burdens, above strength to bear: If therefore the conceived hope of gaining a soul, come to nothing, then charity commands that the beleever be not wearied out with endlesse waiting under many grievances sore to his spirit; but that respect be had rather to the present suffering of a true Christian, then the uncertain winning of an obdurd heretick. The counsell we have from *S. Paul* to hope, cannot countermand the morall and Evangelick charge we have from God to fear seducement, to sepearate from the misbeleever, the unclean, the obdurate. The Apostle wisheth us to hope, but does not send us a wooll-gathering after vain hope: he saith, *How knowest thou, O man, whether thou shalt save thy wife*, that is, till he try all due means, and set some reasonable time to himself after which he may give over washing an Ethiopie, if he will hear the advice of the Gospel, *Cast not pearls before swine*, saith Christ himself. *Let him be to thee as a heathen. Shake the dust off thy feet*. If this be not enough, *bate and forsake*, what relation soever. And this also that follows, must appertaiu to the precept. *Let*

*every man wherein he is call'd therein abide with God.v.24. that is, so walk<sup>ing</sup> in his inferior calling of mariage, as not by dangerous subjection to that ordinance, to hinder and disturb the higher calling of his Christianity. Last, and never too oft remembred, whether this be a command or an advice, we must look that it be so understood, as not to contradict the least point of morall religion that God hath formerly commanded, otherwise what do we but set the morall Law and the Gospel at civill war together: and who then shall be able to serve those two masters?*

## CHAP. IX.

*That adultery is not the greatest breach of matrimony, that there may be other violations as great.*

**N**OW whether Idolatry or Adultery be the greatest violation of mariage, if any demand, let him thus consider, that among Christian Writers touching matrimony, there be three chief ends thereof agreed on; Godly society, next civill, and thirdly, that of the mariage-bed. Of these the first in name to be the highest and most excellent, no baptiz'd man can deny; nor that Idolatry smites directly against this prime end, nor that such as the violated end is, such is the violation: but he who affirms adultery to be the highest breach, affirms the bed to be the highest of mariage, which is in truth a grosse and borish opinion, how common soever; as far from the countenance of Scripture, as from the light of all clean philosophy, or civill nature. And out of question the cheerfull help that may be in mariage toward sanctity of life, is the purest, and to the noblest end of that contract: but if the particular of each person be consider'd, then of those three ends which God appointed, that to him is greatest which is most necessary: and mariage is then most brok'n to him, when he utterly wants the fruition of that which he most sought therein, whether it were religious, civill, or corporall society. Of which wants to do him right by divorce onely for the last and meanest, is a perverse injury, and the pretended reason of it as frigid as frigidity it self, which the *Code* and *Canon* are only sensible of. Thus much of this controversie. I now return to the former argument. And having shewn that disproportion, contrariety, or numnesse of mind may justly be divorc'd, by proving already that the prohibition thereof opposes the expresse end of Gods institution, suffers not mariage to satisfie that intellectuall and innocent desire which God himself kindl'd in man to be the bond of wedlock, but only to remedy a sublunary & bestiall burning,

burning, which frugall diet without marriage would easily chaff'n. Next that it drives many to transgresse the conjugall bed, while the soul wanders after that satisfaction which it had hope to find at home, but hath mis't. Or els it sits repining even to Atheism; finding it self hardly dealt with, but misdeeming the cause to be in Gods Law, which is in mans unrighteous ignorance. I have shew'n also how it unties the inward knot of marriage, which is peace and love (if that can be untid which was never knit) while it aimes to keep fast the outward formalitie; how it lets perish the Christian man, to compell impossibly the married man.

## CHAP. X.

*The Sixth Reason of this Law, that to prohibit divorce sought for naturall causes is against nature.*

**T**He sixt place declares this prohibition to be as respectlesse of humane nature as it is of religion, and therefore is not of God. He teaches that an unlawfull marriage may be lawfully divorc't. And that those who having throughly discern'd each others disposition which oft-times cannot be till after matrimony, shall then find a powerfull reluctance and recoile of nature on either side blasting all the content of their mutuall society, that such persons are not lawfully married (to use the Apostles words) *Say I these things as a man, or saith not the Law also the same? for it is writt'n, Deut. 22. Thou shalt not sow thy vineyard with divers seeds, lest thou defile both. Thou shalt not plow with an Ox and an Asse together, and the like.* I follow the pattern of S. Pauls reasoning; *Doth God care for asses and oxen, how ill they yoke together, or is it not said altogether for our sakes? for our sakes no doubt this is writt'n.* Yea the Apostle himself in the forecited 2 Corinth. 6. 14. alludes from that place of Deut. to forbid mis-yoking marriage; as by the Greek word is evident, though he instance but in one example of mismatching with an Infidell: yet next to that what can be a fouler incongruities, a greater violence to the reverend secret of nature, then to force a mixture of minds that cannot unite, and to sow the furrow of mans nativity with seed of two incoherent and uncombining dispositions; which act being kindly and voluntarie, as it ought, the Apostle in the language he wrote call'd *Emoia*, and the Latines *Benevolence*, intimating the originall thereof to be in the understanding and the will: if not, surely there is nothing which might more properly be call'd a malevolence rather; and is the most injurious and unnaturall tribute that can be extorted from a person endw'd



dew'd with reason, to be made pay out the best substance of his body, and of his soul too, as some think, when either for just and powerfull causes he cannot like, or from unequall causes finds not recompence. And that there is a hidden efficacy of love and hatred in man as well as in other kinds, not morall, but naturall, which though not alwaies in the choice, yet in the successe of mariage will ever be most predominant, besides daily experience, the author of *Ecclesiasticus*, whose wisdom hath set him next the Bible, acknowledges, 13. 16. *A man, saith he, will cleave to his like.* But what might be the cause, whether each ones allotted *Genius* or proper Star, or whether the supernall influence of Schemes and angular aspects or this elementall *Crisis* here below, whether all these joynly or singly meeting friendly, or unfriendly in either party, I dare not, with the men I am likeliest to clash, appear so much a Philosopher as to conjecture. The ancient Proverb in *Homer* lesse obtruse entitles this work of leading each like person to his like, peculiarly to God himself: which is plain enough also by his naming of a meet or like help in the first espousall instituted; and that every woman is meet for every man, none so absurd as to affirm. Seeing then there is indeed a twofold Seminary or stock in nature, from whence are deriv'd the issues of love and hatred distinctly flowing through the whole masse of created things, and that Gods doing ever is to bring the due likenesses and harmonies of his works together, except when out of two contraries met to their own destruction, he moulds a third existence, and that it is error, or some evil Angel which either blindly or maliciously hath drawn together in two persons ill inbarkt in wedlock the sleeping discords and enmities of nature lull'd on purpose with some false bait, that they may wake to agony and strife, later then prevention could have withst, if from the bent of just and honest intentions beginning what was begun, and so continuing, all that is equall, all that is fair and possible hath been tri'd, and no accommodation likely to succeed what folly is it still to stand combating and battering against invincible causes and effects, with evil upon evil, till neither the best of our dayes be linger'd out, or ended with some speeding sorrow. The wise *Ecclesiasticus* advises rather, 37. 27. *My son, prove thy soul in thy life, see what is evil for it, and give not that unto it.* Reason he had to say so; for if the noisomnesse or disfigurement of body can soon destroy the sympathy of mind to wedlock duties, much more will the annoyance and trouble of mind infuse it self into all the faculties and acts of the body, to render

them invalid, unkindly, and even unholy against the fundamentall law book of nature, which *Moses* never thwarts, but reverences: therefore he commands us to force nothing against sympathy or naturall order, no not upon the most abject creatures; to shew that such an indignitie cannot be offer'd to man without an impious crime. And certainly those divine meditating words of finding out a meet and like help to man, have in them a consideration of more then the indefinite likenesse of womanhood; nor are they to be made waste paper on, for the dulnesse of Canon divinity: no nor those other allegorick precepts of beneficence fetcht out of the closet of nature to teach us goodnes and compassion in not compelling together unmatchable societies, or if they meet through mischance, by all consequence to dis-joyn them, as God and nature signifies, and lectures to us not only by those recited decrees, but ev'n by the first and last of all his visible works; when by his divorcing command the world first rose out of Chaos, nor can be renewed again out of confusion but by the separating of unmeet consorts.

## CHAP. XI.

*The seventh Reason, That sometimes continuance in marriage may be evidently the shortning or endangering of life to either party, both Law and Divinity concluding, that life is to be prefer'd before marriage the intended solace of life.*

**S**eventhly, The Canon Law and Divines consent, that if either party be found contriving against anothers life, they may be sever'd by divorce; for a sin against the life of marriage, is greater then a sin against the bed: the one destroys, the other but defiles: The same may be said touching those persons who being of a pensive nature and cours of life, have sum'd up all their solace in that free and lightsome conversation which God and man intends in marriage: wherof when they see themselves depriv'd by meeting an unsociable consort, they oft-times resent one anothers mistake so deeply, that long it is not ere griefe end one of them. When therefore this danger is foreseen, that the life is in perill by living together, what matter is it whether helples grief, or wilfull practice be the cause; This is certain, that the preservation of life is more worth then the compulsory keeping of marriage; and it is no lesse then cruelty to force a man to remain in that state as the solace of his life, which he and his friends know will be either the undoing or the disheartning of his life. And what is life without the  
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vigor and spiritfull exercise of life? how can it be usefull either to private or publick employment? shall it therefore be quite dejected, though never so valuable, and left to moulder away in heaviness for the superstitious and impossible performance of an ill-driv'n bargain? Nothing more inviolable then vows made to God, yet we read in *Numbers* that if a wife had made such a vow, the meer will and authoritie of her husband might break it; how much more may he break the error of his own bonds with an unfit and mistak'n wife, to the saving of his welfare, his life, yea his faith and vertue from the hazard of over-strong temptations; for if man be Lord of the Sabbath, to the curing of a Fever, can he be lesse then Lord of marriage in such important causes as these?

## CHAP. XII.

*The eighth Reason, It is probable, or rather certain, that every one who happens to marry, hath not the calling, and therefore upon unfitnessse found and consider'd, force ought not to be us'd.*

**E**ighthly, It is most sure that some even of those who are not plainly defective in body, yet are destitute of all other marriageable gifts, and consequently have not the calling to marry; unlesse nothing be requisite thereto but a meer instrumentall body; which to affirm, is to that unanimous Covenant a reproach: yet it is as sure that many such, not of their own desire, but by the perswasion of friends, or not knowing themselves, do often enter into wedlock; where finding the difference at length between the duties of a married life, and the gifts of a single life; what unsuitnes of mind, what wearisomnesse, what scruples and doubts to an incredible offence and displeasure are like to follow between, may be soon imagined: whom thus to shut up and immure and shut up together, the one with a mischosen mate, the other in a mistaken calling, is not a course that Christian wisdom and tenderneesse ought to use. As for the custome that some parents and guardians have of forcing mariages, it will be better to say nothing of such a savage inhumanity, but onely thus, that the Law which gives not all freedom of divorce to any creature endued with reason to assassinated, is next in cruelty.

## CHAP. XIII.

*The ninth Reason, Because marriage is not a meer carnall coition, but a humane Society, where that cannot reasonably be had, there can be no true matrimony. Marriage compar'd with all other covenants and vows warrantably broken for the good of man. Marriage the Papists Sacrament, and unfit marriage the Protestants Idoll.*

**N**Intly, I suppose it will be allow'd us that marriage is a human Society, and that all human society must proceed from the mind rather than the body, els it would be but a kind of animall or beasting meeting; if the mind therefore cannot have that due company by marriage, that it may reasonably and humanly desire, that marriage can be no human society, but a certain formality; or guilding over of little better then a brutish congresse, and so in very wisdom and purenesse to be dissolv'd.

But marriage is more then human, *the Covenant of God*, Prov. 2. 17. therefore man cannot dissolve it. I answer, if it be more then human, so much the more it argues the chief society thereof to be in the soul rather then in the body, and the greatest breach therof to be unfitnessse of mind rather then defect of body: for the body can have least affinity in a covenant more then human, so that the reason of dissolving holds good the rather. Again, I answer, that the Sabbath is a higher institution, a command of the first Table, for the breach wherof God hath far more and oftner testify'd his anger, then for divorces, which from *Moses to Malachy* he never took displeasure at, nor then neither, if we mark the Text; and yet as oft as the good of man is concern'd, he not only permits, but commands to break the Sabbath. What covenant more contracted with God, and lesse in mans power, then the vow which hath once past his lips? yet if it be found rash, if offensive, if unfruitfull either to Gods glory or the good of man, our doctrine forces not error and unwillingnes irksomly to keep it, but counsels wisdom and better thoughts boldly to break it; therefore to enjoin the indissoluble keeping of a marriage found unfit against the good of man both soul and body, as hath been evidenc't, is to make an Idol of marriage, to advance it above the worship of God and the good of man, to make it a transcendent command, above both the second and the first Table, which is a most prodigious doctrine.

Next, wheras they cite out of the *Proverbs*, that it is the *Covenant of God*, and therefore more then human, that consequence is manifestly false:

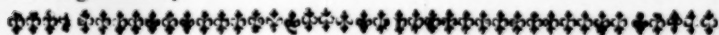
false: for so the covenant which *Zedechiah* made with the Infidell King of *Babel*, is call'd the *Covenant of God*. Ezek. 17. 19. which would be strange to hear counted more then a human covenant. So every covenant between man and man, bound by oath, may be call'd the covenant of God, because God therein is attested. So of mariage he is the author and the witness; yet hence will not follow any divine astricti-on more then what is subordinate to the glory of God and the main good of either party; for as the glory of God and their esteem'd fitnessse one for the other, was the motive which led them both at first to think without other revelation that God had joyned them together, So when it shall be found by their apparent unsitnesse, that their continuing to be man and wife is against the glory of God and their mutuall happinesse, it may assure them that God never joyn'd them; who hath reveal'd his gracious will not to set the ordinance above the man for whom it was ordain'd: not to canonize mariage either as a tyrannesse or a goddesse over the enfranchiz'd life and soul of man: for wherein can God delight, wherein be worshipt, wherein be glorify'd by the forcible continuing of an improper and ill-yoking couple? He that lov'd not to see the disparity of severall cattell at the plow, cannot be pleas'd with any vast unmeetnesse in mariage. Where can be the peace and love which must invite God to such a house, may it not be feared that the not divorcing of such a helpelesse disagreement, will be the divorcing of God finally from such a place? But it is a triall of our patience they say: I grant it: but which of *Jobs* afflictions were sent him with that law, that he might not use means to remove any of them if he could? And what if it subvert our patience and our faith too? Who shall answer for the perishing of all those souls perishing by stubborn expositions of particular and inferior precepts against the generall and supreme rule of charity? They dare not affirm that mariage is either a Sacrament, or a mystery, though all those sacred things give place to man, and yet they invest it with such an awfull sanctity, and give it such adamantine chains to bind with, as if it were to be worshipt like some Indian deity, when it can conferre no blessing upon us, but works more and more to our misery. To such teachers the saying of *S. Peter* at the Councell of *Jerusalem* will do well to be apply'd: *Why tempt ye God to put a yoke upon the necks of Christian men, which neither the Jews, Gods ancient people, nor we are able to bear:* and nothing but unwary expounding hath brought upon us.

## CHAP. XIV.

*Considerations concerning Familism, Antinomianisme, and why it may be thought that such opinions may proceed from the undue restraint of some just liberty, then which no greater cause to contemne discipline.*

**T**O these considerations this also may be added as no improbable conjecture; seeing that sort of men who follow *Anabaptism, Familism, Antinomianism*, and other fanatick dreams (if we understand them not amisse) be such most commonly as are by nature addicted to Religion, of life also not debauchte, and that their opinions having full swinge, do end in satisfaction of the flesh, it may be come with reason into the thoughts of a wise man, whether all this proceed not partly, if not chiefly, from the restraint of some lawfull liberty, which ought to be giv'n men, and is deny'd them. As by Physick we learn in menstruous bodies, where natures current hath been stopt, that the suffocation and upward forcing of some lower part, affects the head and inward sense with dotage & idle fancies. And on the other hand, whether the rest of vulgar men not so religiously professing do not give themselves much the more to whoredom and adulteries, loving the corrupt and venial discipline of clergie Courts, but hating to hear of perfect reformation: when as they foresee that then fornication shall be austere censur'd, adultery punish'd, and mariage the appointed refuge of nature, though it hap to be never so incongruous and displeasing, must yet of force be worn out, when it can be to no other purpose but of strife and hatred, a thing odious to God. This may be worth the study of skilfull men in Theology, and the reason of things: and lastly to examine whether some undue and ill grounded strictnesse upon the blamelesse nature of man, be not the cause in those places where already reformation is, that the discipline of the Church so often and so unavoidably brok'n, is brought into contempt and derision. And if it be thus, let those who are still bent to hold this obstinate *literality*, so prepare themselves as to share in the account for all these transgressions, when it shall be demanded at the last day by one who will scan and sift things with more then a literall wisdom of equity; for if these reasons be duly ponder'd, and that the Gospel is more jealous of laying on excessive burdens then ever the Law was, lest the soul of a Christian which is inestimable, should be over-tempted and cast away, considering also that many properties of nature, which the power of regeneration it self never alters, may cause dislike,

like of conversing even between the most sanctify'd, which continually grating in harsh tune together, may breed some jarre and discord, and that end in rancor and strife, a thing so opposite both to marriage and to Christianity, it would perhaps be lesse scandall to divorce a naturall disparity, then to link violently together an unchristian dissension, committing two ensnared souls inevitably to kindle one another, not with the fire of love, but with a hatred *inconcilable*, who were they dissevered, would be straight friends in any other relation. But if an alphabeticall servility must be still urged, it may so fall out, that the true Church may unwittingly use as much cruelty In forbidding to divorce, as the Church of Antichrist doth wilfully in forbidding to marry.



## THE SECOND BOOK.

### CHAP. I.

*The Ordinance of Sabbath and marriage compar'd. Hyperbole no unfrequent figure in the Gospel. Excesse cur'd by contrary excesse. Christ neither did, nor could abrogat the Law of divorce, but onely reprove the abuse thereof.*

**H**itherto the Position undertaken hath been declar'd, and proved by a Law of God, that Law proved to be morall, and unabolishable for many reasons equall, honest, charitable, just, annext therto. It follows now that those places of Scripture which have a seeming to revoke the prudence of *Moses*, or rather that mercifull decree of God, be forthwith explain'd and reconcil'd. For what are all these reasonings worth wil some reply, whenas the words of Christ are plainly against all divorce, except *in case of fornication*. To whom he whose mind were to answer no more but this, *except also in case of charity*, might safely appeal to the more plain words of Christ in defence of so excepting. *Tbou shalt do no manner of work* saith the commandment of the Sabbath. Yes saith Christ works of charity. And shall we be more severe in paraphrasing the considerat and tender Gospel, then he was in expounding the rigid and peremptory Law? What was ever in all appearance lesse made for man, and more for God alone then the Sabbath? yet when the good of man comes into the scales, we hear that voice of infinite goodnesse and benignity that *Sabbath was made for man*,

*man, not man for Sabbath.* What thing ever was more made for man alone and lesse for God then mariage? And shall we load it with a cruell and senceles bondage utterly against both the good of man and the glory of God? Let who so will now listen, I want neither pall nor mitre, I lay neither for ordination or induction, but in the firm faith of a knowing Christian, which is the best and truest endowment of the keyes, I pronounce, the man who shall bind so cruelly a good and gracious ordinance of God, hath not in that the Spirit of Christ. Yet that every text of Scripture seeming opposite may be attended with a due exposition, this other part ensues, and mak s account to find no slender arguments for this assertion out of those very Scriptures, which are commonly urg'd against it.

First therefore let us remember as a thing not to be deny'd, that all places of Scripture wherein just reason of doubts arises from the letter, are to be expounded by considering upon what occasion every thing is set down: and by comparing other Texts. The occasion which induc't our Saviour to speak of divorce, was either to convince the extravagance of the Pharises in that point, or to give a sharp and vehement answer to a tempting question. And in such cases that we are not to repose all upon the literall terms of so many words, many instances will teach us: Wherin we may plainly discover how Christ meant not to be tak'n word for word, but like a wise Physician, administring one excessse against another to reduce us to a perfect mean: Where the Pharises were strict, there Christ seems remisse; where they were too remisse, he saw it needfull to seem most severe: in one place he censures an unchast look to be adultery already committed: another time he passes over actuall adultery with lesse reproof then for an unchast look; not so heavily condemning secret weaknes, as open malice: So heer he may be justly thought to have giv'n this rigid sentence against divorce, not to cut off all remedy from a good man who finds himself consuming away in a disconsolate and uninjoy'd matrimony, but to lay a bridle upon the bold abuses of those over-weening *Rabbies*; which he could not more effectually do, then by a counterway of restraint curbing their wild exorbitance almost into the other extreme; as when we bow things the contrary way, to make them come to their naturall straitnesse. And that this was the only intention of Christ is most evident; if we attend but to his own words and protestation made in the same Sermon, not many verses before he treats of divorcing, that he came



not to abrogate from the Law *one jot or tittle*, and denounce against them that shall so reach.

But S. *Luke*, the verse immediately before going that of divorce inserts the same caveat, as if the latter could not be understood without the former; and as a witness to produce against this our wilfull mistake of abrogating, which must needs confirm us that what ever els in the political law of more special relation to the Jewes might cease to us, yet that of those precepts concerning divorce, not one of them was repeal'd by the Doctrine of Christ, unless we have vow'd not to believe his own cautious and immediat profession; for if these our Saviours words inveigh against all divorce, and condemn it as adultery, except it be for adultery, and be not rather understood against the abuse of those divorces permitted in the Law, then is that Law of *Moses*, Deut. 24. 1. not onely repeal'd and wholly annall'd against the promise of Christ and his known profession, not to meddle in matters Judicial, but that which is more strange, the very substance and purpose of that Law is contradicted and convinc'd both of injustice and impurity, as having authoriz'd and maintain'd legall adultery by statute. *Moses* also cannot scape to be guilty of unequall and unwise decrees, punishing one act of secret adultery by death, and permitting a whole life of open adultery by Law. And albeit Lawyers write that some politicall edicts, though not approv'd, are yet allow'd to the scum of the people and the necessity of the times; these excuses have but a weake pulse: for first, we read, not that the scoundrel people, but the choicest, the wisest, the holiest of that nation have frequently us'd these lawes, or such as these in the best and holiest times. Secondly, be it yeilded, that in matters nor very bad or impure, a human law giver may slacken something of that which is exactly good, to the disposition of the people and the times: but if the perfect, the pure, the righteous law of God, for so are all his statutes and his judgements, be found to have allow'd smoothly without any certain reprehension, that which Christ afterward declares to be adultery, how can we free this Law from the horrible endightment of being both impure, unjust, and fallacious.

## CHAP. II.

*How divorce was permitted for hardnesse of heart, cannot be understood by the common exposition. That the Law cannot permit, much lesse enact a permission of sin.*

**N**either will it serve to say this was permitted for the hardnesse of their hearts, in that sense, as it is usually explain'd, for the Law were

were then but a corrupt and erroneous School-master, teaching us to dash against a vitall maxim of religion, by doing foule evill in hope of some uncertain good.

This onely Text not to be match't again throughout the whole Scripture, whereby God in his perfect Law should seeme to have granted to the hard hearts of his holy people under his owne hand, a civill immunity and free charter to live and die in a long succedive adultery, under a covenant of works, till the *Messiah*, and then that indulgent permission to be strictly deny'd by a covenant of grace; besides the incoherence of such a doctrine, cannot, must not be thus interpreted, to the raising of a paradox never known till then, onely hanging by the win'd thred of one doubtful Scripture, against so many other rules and leading principles of religion, of justice, and purity of life. For what could be granted more either to the feare, or to the lust of any tyrant, or exulticiat, then this authority of *Moses* thus expounded; which opens him a way at will to damme up justice, and not onely to admit of any *Romish* or *Austrian* dispences, but to enact a statute of that which he dares not seeme to approve, ev'n to the legitimate vices, to make sinne it selfe, the ever alien and vassal sin, a free Citizen of the Common-wealth, pretending onely these or these plausible reasons. And well he might, all the while that *Moses* shall be alledgd to have done as much without shewing any reason at all. Yet this could not enter into the heart of *David*, *Psal.* 94. 20. how any such authority as endeavours to fashion wickednes by a law, should derive it selfe from God. And *Isaiah* lyes woe upon them that decree unrighteous decrees 10. 1. Now which of these two is the better Lawgiver, and which deserves most a woe, he that gives out an edict singly unjust, or he that confirms to generations a fixt and unmolested impunity of that which is not onely held to be unjust, but also unclean, and both in a high degree, not onely as they themselves affirm, an injurious expulsion of one wife, but also an unclean freedome by more then a patent to wed another adulterously? How can we therefore with safety thus dangerously confine the free simplicity of our Saviours meaning to that which meerly amounts from so many letters, when as it can consist neither with his former and cautionary word, nor with other more pure and holy principles, nor finally with the scope of charity, commanding by his expresse commission in a higher grain. But all rather of necessity must be understood as onely against the abuse of that wise and ingenu-

ingenuous liberty which *Moses* gave, and to terrifie a roaving conscience from sinning under that pretext.

### CHAP. III.

*That to allow sin by Law, is against the nature of Law, the end of the law-giver and the good of the people. Impossible therefore in the Law of God That it makes God the author of sin more then anything objected by the Jesuits or Arminians against Predestination.*

**B**Ut let us yet further examine upon what consideration a Law of licence could be thus giv'n to a holy people for the hardnesse of heart. I suppose all will answer, that for some good end or other. But here the contrary shall be prov'd. First, that many ill effects, but no good end of such a sufferance can be shewn; next, that a thing unlawfull can for no good end whatever be either don or allow'd by a positive law. If there were any good end aim'd at, that end was then good, either to the Law, or to the lawgiver licencing; or as to the person licenc't. That it could not be the end of the Law, whether Morall or Judiciall to licence a sin, I prove easily out of *Rom. 5. 20. The Law enter'd that the offence might abound*, that is, that sin might be made abundantly manifest to be hainous and displeasing to God, that so his offer'd grace might be the more esteem'd. Now if the Law instead of aggravating and terrifying sin, shall give out licence, it foils it selfe, and turns recreant from its owne end: it forestalls the pure grace of Christ which is through righteousness, with impure indulgences which are through sin. And instead of discovering sinne, for by the Law is the knowledge thereof saith *S. Paul*, and that by certain and true light for men to walk in safely, it holds out fals and dazling fires to stumble men: or like those miserable flies to run into with delight, and be burnt: for how many soules might easily think that to be lawfull, which the Law and Magistrate allow'd them? Again we read, *1 Tim. 1. 5. The end of the Commandment is charity out of a pure hart, and of a good conscience and of faith unsained.* But never could that be charity to allow a people what they could not use with a pure heart, but with conscience and faith both deceiv'd, or els despis'd. The more particular end of the Judiciall Law is set forth to us clearly *Rom. 13. that God hath giv'n to that Law a Sword not in vain, but to be a terror to evil works, a revenge to execute wrath upon him that doth evil.* If this terrible commission should but forbear to punish wickedness, were it other to be accounted then partiall and unjust? but if it

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begin to write indulgence to vulgar uncleanness can it doe more to corrupt and shame the end of its own being? Lastly, if the Law allow sin, it enters into a kind of covenant with sin, and if it doe, there is not a greater sinner in the world then the Law it selfe. The Law, to use an allegory something different from that in *Philo Iudeus* concerning *Amaleck*, though haply more significant, the Law is the *Israelite*, and hath this absolute charge given it, Deut. 25. *To blot out the memory of sin the Amalekite from under heav'n, nor to forget it.* Again, the Law is the *Israelite*, and hath this expresse repeated command to *make no covenant with sin the Cananite*, but to expell him, lest he prove a snare. And to say truth it were too rigid and reasonlesse to proclaime such an enmity between man and man, were it not the type of a greater enmity between law and sin. I speake ev'n now, as if sin were condemn'd in a perpetuall villenage never to be free by law, never to be ~~manumitted~~: but sure sin can have no tenure by law at all but is rather an eternall outlaw, and in hostility with Law past all attonement: both *diagonal* contraries, as much allowing one another, as day and night together both in one hemisphere. Or if it be possible, that sin with his darknesse may come to composition, it cannot be without a foul eclipse, and twilight to the law, whose brightnesse ought to surpass the noon. Thus we see how this unclean permittance defeats the sacred and glorious end both of the Moral and Judicial Law.

As little good can the lawgiver propose to equity by such a lavish remission as this: if to remedy hardnesse of heart, *Paras* and other divines confesse, it more encreases by this liberty, then is lesn'd: and how is it probable that their hearts were more hard in this that it should be yeilded to, then in any other crime? Their hearts were set upon usury, and are to this day, no Nation more; yet that which was the endammaging onely of their estates, was narrowly forbid; this which is thought the extreame injury and dishonour of their Wives and daughters with the defilement alio of themselves, is boundlessly allow'd. Their hearts were as hard under their best Kings to offer in high places, though to the true God; yet that but a small thing is strictly forwarn'd; this accounted a high offence against one of the greatest moral duties, is calmly permitted and established. How can it be evaded but that the heaveie censure of Christ should fall worse upon this lawgiver of theirs, then upon all the Scribes and Pharisees? For they did but omit Judgment and Mercy to trifle in Mint and Cummin, yet all according to Law; but this their Lawgiver altogether as punctuall in such niceties, goes marching on to adulte-

adulteries, through the violence of divorce by Law against Law. If it were such a curled act of *Pilat* a subordinate Judge to *Cæsar*, over-  
swayed by those hard hearts with much a doe to suffer one transgres-  
sion of Law but once, what is it then with lesse a doe to publish a  
Law of transgression for many ages? Did God for this come down  
and cover the Mount of *Sinai* with his glory, uttering in thunder  
those his sacred Ordinances out of the bottomlesse treasures of his  
wisdom and infinite purenes to patch up an ulcerous and rott'n com-  
mon-wealth with strict and stern injunctions, to wash the skin and  
garments for every unclean touch, and such easie permission giv'n to  
pollute the soule with adulteries by publick authority, without dis-  
grace, or question? No it had bin better that man had never known  
Law or matrimony, then that such foul iniquity should be fast'nd  
upon the holy One of *Israel*, the Judge of all the earth, and such a  
peece of folly as *Belzebub* would not commit, to divide against him-  
self and pervert his own ends; or if he to compasse more certain mil-  
chief, might yeld perhaps to faine some good deed, yet that God  
should enact a licence of certain evill for uncertain good against His  
owne glory and purenes, is abominable to conceive. And as it is de-  
structive to the end of Law, and blasphemous to the honour of the  
lawgiver licencing, so is it as pernicious to the person licenc't. If a  
private friend admonish not, the Scripture saith *he hates his brother  
and lets him perish*; but if he sooth him, and allow him in his faults, the  
Proverbs teach us *he spreads a net for his neighbors feet, & worketh ruin*.  
If the Magistrate or Prince forget to administer due justice and re-  
strain not sin, *Eli* himself could say *it made the Lords people to trans-  
gress*. But if he count'nance them against law by his owne example,  
what havock it makes both in Religion and vertue among the people,  
may be guest by the anger it brought upon *Hophai* and *Phineas*, not to  
be appeas'd with *sacrifice nor offering for ever*. If the Law be silent to de-  
clare sin, the people must needs generally goe astray, for the Apostle  
himself saith, *he had not known lust but by the Law*: and surely such a  
Nation seems not to be under the illuminating guidance of Gods law,  
but under the horrible doom rather of such as despise the Gospel, *he that  
is filthy let him be filthy still*. But where the Law it self gives a warrane  
for sin, I know not what condition of misery to imagine miserable  
anough for such a people, unlesse that portion of the wicked, or ra-  
ther of the damned, on whom God threatens in 12. Psalm, *to ruin  
squæres*: but that questionlesse cannot be by any Law, which the Apo-  
stle saith *is a ministry ordain'd of God unto our good*, and not so many

wayes and in so high a degree to our destruction, as we have now bin graduating. And this is all the good can come to the person licenc't in his hardnesse of heart.

I am next to mention that which because it is a ground in divinity, Rom. 3. will save the labour of demonstrating, unlesse her giv'n axioms be more doubted then in other Arts (although it be no lesse firme in the precepts of Philosophy) that a thing unlawfull can for no good whatsoever be done, much lesse allow'd by a positive law. And this is the matter why Interpreters upon that passage in *Hosea* will not consent it to be a true story, that the Prophet tooke a Harlot to wife, because God being a pure Spirit could not command a thing repugnant to his own nature, no not for so good an end as to exhibit more to the life a wholesome and perhaps a converting parable to many an Israelite. Yet that he commanded the allowance of adulterous and injurious divorces for hardnesse of heart, a reason obscure and in a wrong sense, they can very favourily perswade themselves, to tenacious is the leven of an old conceit. But they shitt it, he permitted only. Yet silence in the Law is consent, and consent is accessory; why then is not the Law being silent, or not active against a crime, accessory to its own conviction, it selfe judging? For though we should grant; that it approves not, yet it wills; and the Lawyers maxim is that *the will compell'd is yet the will*. And though *Aristotle* in his *Ethicks* call this a *mixt action* yet he concludes it to be voluntary and inexcusable, if it be evill. How justly then might human law and Philosophy rise up against the righteousness of *Moses*, if this be true which our vulgar Divinity fathers upon him; yea upon God himselfe; not silently and onely negatively to permit, but in his law to divulge a written and generall priviledge to commit and persist in unlawfull divorces with a high hand, with security and no ill fame: for this is more then permitting and contriving, this is maintaining; this is warranting, this is protecting, yea this is doing evill, and such an evill as that reprobate lawgiver did, whole lasting infamy is ingravn upon him like a surname *he who made Israel to sin*. This is the lowest pitch contrary to God that publicke fraud and injustice can descend.

If it be affirm'd that God as being Lord may doe what he will; yet we must know that God hath not two wills, but one will, much lesse two contrary. If he once will'd adultery should be sinfull, and to be punish't by death, all his omnipotence will not allow him to will the allowance that his holiest people might as it were by his



own *Antinomie*, or counter-ſtature live unreprou'd in the ſame fact as he himſelfe eſteem'd it, according to our common explainers. The hidden wayes of his providence we adore & ſearch not; but the law is his revealed will his compleat, his evident, and certain will; herein he appeares to us as it were in human ſhape, enters into coven't with us, ſwears to keep it, binds himſelfe like a juſt lawgiver to his own preſcriptions, gives himſelfe to be underſtood by men, judges and is judg'd, meaſures and is commensurat to the right reaſon; cannot require leſſe of us in one cantle of his Law then in another, his legall juſtice cannot be ſo ſickle and ſo variable, ſometimes like a devouring fire, and by and by connivent in the embers, or, it I may ſo ſay, ſolitant and ſupine. The vigor of his Law could no more remit, then the hallowed fire upon his altar could be let go out. The Lamps that burnt before him might need ſuſtaining, but the light of his Law never. Of this alſo more beneath, in diſcuſſing a ſolution of *Riverius*.

The Jeſuits, and that ſect among us which is nam'd of *Arminius*, are wont to charge us of making God the author of ſinne in two degrees eſpecially, not to ſpeake of his permiſſion. 1. Becauſe we hold that he hath decreed ſome to damnation, and conſequently to ſinne, ſay they: Next, becauſe thoſe meanes which are of ſaving knowledge to others, he makes to them an occaſion of greater ſinne. Yet conſidering the perfection wherein man was created, and might have ſtood, no decree neceſſitating his free will, but ſubſequent though not in time yet in order to cauſes which were in his own power, they might, me thinks be perſwaded to abſolve both God and us, When as the doctrine of *Plato* and *Chryſippus* with their followers the *Academies* and the *Stoics*, who knew not what a conſummat and moſt adorned *Pandora* was beſtow'd upon *Adam* to be the nurſe and guide of his arbitrary happineſſe and perſeverance, I mean his native innocence and perfection, which might have kept him from being our true *Epimetheus*, and though they taught of vertue and vice to be both the gift of divine deſtiny, they could yet give reaſons not invalid, to juſtifie the counſells of God and Fate from the inſultury of mortall tongues: That mans own will ſelfe corrupted is the adequate and ſufficient cauſe of his diſobedience beſides Fate; as *Homer* alſo wanted not to expreſſe both in his *Jlead* and *Odiffeſ*. And *Manilius* the Poet although in his fourth book he tells of ſome created both to ſinne and puniſhment; yet without murmuring and with an induſtrious cheerefulneſſe acquits the *Deity*. They were not ignorant in their hea- then

thenfore, that it is most God-like to punish those who of his creatures became his enemies with the greatest punishment; and they could attain also to think that the greatest, when God himselfe throws a man furthest from him; which then they held hee did, when he blinded, hard'n'd, and stirr'd up his offenders to sinne, and pile up their desperate worke since they had undertak'n it. To banish for ever unto a locall hell, whether in the aire or in the center, or in that uttermost and bottomlesse gulph of *Chaos*, deeper from holy blisse then the worlds diameter multiply'd, they thought not a punishing so proper and proportionate for God to inflict, as to punish sinne with sinne. Thus were the common sort of Gentiles wont to thinke, without any wry thoughts cast upon divine governance. And therefore *Cicero* not in his *Tusculan* or *Campanian* retirements among the learned wits of that age; but ev'n in the *Senat* to a mixt auditory (though he were sparing otherwise to broach his Philosophy among Statists and Lawyers) yet as to this point both in his oration against *Piso*, and in that which is about the answers of the soothsayers against *Clodius*, he declares it publicly as no paradox to commendates, that God cannot punish man more, nor make him more miserable: then still by making him more sinfull. Thus we see how in this controversie the justice of God stood upright ev'n among heathen disputers. But if any one be truly, and not pretendedly zealous for Gods honour, here I call him forth before men and Angels, to use his best and most advised skill, lest God more unavoidably then ever yet, and in the guiltiest manner be made the author of sin: if he shall not onely deliver over and incite his enemies by rebuke to sin as a punishment, but shall by patent under his own broad seale allow his friend whom he would sanctify and save, whom he would unite to himselfe and not dis-joyne, whom he would correct by wholsome chastning, and not punish as hee doth the damned by lewd sinning, if he shall allow these in his Law the perfect rule of his own purest will, and our most edify'd conscience, the perpetrating of an odious and manifold sin without the least contesting. Tis wonderd how there can be in God a secret, and a reveal'd will; and yet what wonder, if there be in man two answerable causes. But here there must be two revealed wills grappling in a fraternall warre with one another without any reasonable cause apprehended. This cannot be lesse then to ingraft sin into the substance of the law, which law is to provoke sin by crossing and forbidding, not by complying with it. Nay this is, which I tremple in uttering, to incarnat sin into the punishing

punishing and well pleas'd will of God. To avoid these dreadful consequences that tread upon the heels of those allowances to sin, will be a task of far more difficulty then to appease those minds which perhaps out of a vigilant and wary conscience except against predestination. Thus finally we may conclude, that a Law wholly giving licence cannot upon any good consideration be giv'n to a holy people for hardnesse of heart in the vulgar sense.

## CHAP. IV.

*That if divorce be no command, no more is marriage. That divorce could be no dispensation if it were lawfull. The Solution of Rivetus, that God dispenc's by some unknown way, ought not to satisfie a Christian mind.*

**O**thers think to evade the matter by not granting any Law of divorce, but onely a dispensation, which is contrary to the words of Christ, who himselve calls it a *Law*, *Mark. 10. 5.* or if we speak of a command in the strictest definition, then marriage it self is no more a command then divorce, but only a free permission to him who cannot contain. But as to dispensation I affirm, the same as before of the Law, that it can never be giv'n to the allowance of sin, God cannot give it neither in respect of himself, nor in respect of man: not in respect of himself, being a most pure essence, the just avenger of sin; neither can he make that cease to be a sin, which is in it self unjust and impure, as all divorces they say were which were not for adultery. Not in respect of man; for then it must be either to his good or to his evil: Not to his good; for how can that be imagin'd any good to a sinner whom nothing but rebuke and due correction can save, to hear the determinate oracle of divine Law louder then any reproof dispensing and providing for the impunity and convenience of sin; to make that doubtfull, or rather lawfull, which the end of the law was to make most evidently hatefull. Nor to the evil of man can a dispence be given; for if *the Law were ordain'd unto life*, *Rom. 7. 10.* how can the same God publish dispences against that Law, which must needs be unto death? Absurd and monstrous would that dispence be, if any Judge or Law should give it a man to cut his own throat, or to damne himself. Dispence therefore presupposes full pardon, or els it is not a dispence, but a most banefull & bloody snare. And why should God enter covenant with a people to be holy, as *the Command is holy, and just, and good*, *Rom. 7. 12.* and yet suffer an impure and treacherous dispence to mislead and betray them under the vizard of Law to a legitimate practice of uncleannesse. God is no covenant breaker, he cannot do this.

Rivetus, a diligent and learned Writer, having well waighed what hath been written by those founders of dispenſe, and finding the ſmall agreement among them, would fain work himſelf aloof theſe rocks and quickſands, and thinks it beſt to conclude that God certainly did diſpenſe, but by ſome way to us unknown, and ſo to leave it. But to this I oppoſe, that a Chriſtian by no means ought reſt himſelf in ſuch an ignorance; wherby ſo many abſurdities will ſtrait reſlect both againſt the purity, juſtice, and wiſdom of God, the end alſo both of Law and Goſpel, and the compariſon of them both together. God indeed in ſome wayes of his providence, is high and ſecret paſt finding out: but in the delivery and execution of his Law, eſpecially in the managing of a duty ſo daily and ſo familiar as this is wherof we reaſon, hath plain enough reveal'd himſelf, and requires the obſervance therof not otherwiſe then to the law of nature and of equity imprinted in us ſeems correſpondent. And he hath taught us to love and to extoll his Laws, not onely as they are his, but as they are juſt and good to every wiſe and ſober underſtanding. Therefore *Abraham* even to the face of God himſelf, ſeemed to doubt of divine juſtice, if it ſhould ſwerve from that irradiation wherewith it had enlightned the mind of man, and bound it ſelf to obſerve its own rule. *Wilt thou deſtroy the righteous with the wicked? That be far from thee; ſhall not the Judge of the earth do right?* Therby declaring that God hath created a righteous ſelfe in right it ſelf, againſt which he cannot do. So *David*, *Pſal.* 119. *The teſtimonies which thou haſt commanded are righteous and very faithfull; thy word is very pure, therefore thy ſervant loveth it.* Not only then for the authors ſake, but for its own purity. *He is faithfull*, ſaith *S. Paul*, *he cannot deny himſelf*; that is, cannot deny his own promiſes, cannot but be true to his own rules. He often pleads with men the uprightness of his waies by their own principles. How ſhould we imitate him elſ to be perfect as he is perfect. If at pleaſure he can diſpenſe with golden Poetick ages of ſuch pleaſing licence, as in the fabled reign of old *Saturn*. And this perhaps before the Law might have ſome covert; but under ſuch an undiſpenſing covenant as *Moses* made with them, and not to tell us why and wherefore indulgence, cannot give quiet to the breaſt of any intelligent man. We muſt be reſolved how the Law can be pure and perſpicuous, and yet throw a polluted ſkirt over theſe *Elementum* myſteries, that no man can utter what they mean: worſe in this then the worſt obſcenities of heathen ſuperſtition; for their filthines was hid, but the myſtick reaſon thereof known to their Sages: But this

this Jewish imputed filthinesse vvas daily and open, but the reason of it is not known to our Divines. We know of no designe the Gospel can have to impose new righteousness upon vworks, but to remit the old by faith without vworks, if vve mean justifying vworks: vve know no mystery our Saviour could have to lay new bonds upon marriage in the covenant of grace vvhich himself had loosned to the severity of Law. So that *Rivetus* may pardon us if vve cannot be contented with his non-solution to remain in such a peck of incertainties and doubts so dangerous and gassly to the fundamentals of our faith.

CHAP. V.

*What a Dispensation is.*

Therefore to get some better satisfaction, we must proceed to enquire as diligently as we can, what a dispensation is, which I find to be either properly so call'd, or improperly. Improperly so call'd, is rather a particular and exceptive law absolving & disobliging from a more general command for some just and reasonable cause. As *Num.* 9. they who were unclean, or in a journey, had leave to keep the passover, in the second moneth, but otherwise ever in the first. As for that in *Leviticus* of marrying the brothers wife, it was a penall statute rather then a dispence; and commands nothing injurious or in it self unclean, only prefers a speciall reason of charitie, before an institutive decencie, and perhaps is meant for life time only, as is exprest beneath in the prohibition of taking two sisters. What other edict of *Moses*, carrying, but the semblance of a Law in any other kind, may bear the name of a dispence, I have not readily to instance. But a dispensation most properly is some particular accident rarely hapning, and therefore not specify'd in the Law, but left to the decision of charitie, ev'n under the bondage of Jewish rites, much more under the liberty of the Gospel. Thus did *David* enter into the house of God, and did eat the Shew bread, he and his followers, which was ceremonially unlawfull. Of such dispences as these it was that *Verdune* the French Divine so gravely disputed in the Councell of *Trent* against *Friar Adrian*, who held that the Pope might dispence with any thing. It is a fond persuasion, saith *Verdune*, that dispensing is a favour, nay it is as good distributive justice, as what is most, and the Priest sins if he give it not: for it is nothing else but a right interpretation of Law. Thus farre that I can learn touching this matter wholsomly decreed. But that God who is the giver of every good and perfect gift, *Jam.* 1. should give out a rule and directory

to sin by, should enact a dispensation as long liv'd as a law whereby to live in priviledg'd adultery for hardnes of heart, and yet this obdurat disease cannot be conceiv'd how it was the more amended by this unclean remedy, is the most deadly and Scorpion like gift that the enemy of mankind could have given to any miserable sinner, and is rather such a dispence as that was which the Serpent gave to our first parents. God gave Quails in his wrath, and Kings in his wrath, yet neither of these things evill in themselves, but that he whose eyes cannot behold inipurity, should in the book of his holy cov'nant, his most unpassionat law, give licence, and statute for uncontroul'd adultery, although it go for the receiv'd opinion, I shall ever disswade my soul from such a creed, such an indulgence as the thop of Antichriit never forg'd a baser.

## CHAP. VI.

*That the Jew had no more right to this supposed dispence, then the Christian hath, and rather not so much.*

**B**UT if we must needs dispence, let us for a while so farre dispence with truth, as to grant that sin may be dispenet: yet there will be copious reason found to prove that the Jew had no more right to such a suppos'd indulgence, then the Christian, whether we look at the clear knowledge wherin he liv'd, or the strict performance of works wherto he was bound. Besides visions and propheties they had the Law of God, which in the Psalms and Proverbs is chiefly prais'd for surenesse and certaintie both easie and perfect to the enlightning of the simple. How could it be so obscure then, or they so sottishly blind in this plain morall and household duty? They had the same precepts about mariage, Christ added nothing to their clearnesse, for that had argu'd them imperfect; he opens not the Law, but removes the Pharisaick mists rais'd between the law and the peoples eyes: the only sentence which he adds, *When God hath join'd let no man put asunder*, is as obscure as any clause fetcht out of *Genesis*, and hath encreast a yet undecided controversie of *Clandestine* mariages. If we examine over all his sayings, we shall find him not so much interpreting the Law with his words, as referring his own words to be interpreted by the Law, and oftner obscures his mind in short, and vehement, and compact sentences, to blind and puzzle them the more who would not understand the Law. The Jews therefore were as little to be dispenet with for lack of morall knowledge, as we.

Next, none I think will deny, but that they were as much bound to perform



perform the Law as any Christian. That severe and rigorous knife not sparing the tender fore-skin of any male infant, to carve into his flesh the mark of that strict and pure cov'nant wherinto he enter'd, might give us to understand enough against the fancie of dispensing. *S. Paul* testifies that every *circumcis'd man is a debtor to the whole law*, Gal. 5. or *els circumcision is in vain*, Rom. 2. 25. How vain then, and how preposterous must it need be to exact a circumcision of the flesh from an infant unto an outward signe of purity, and to dispencc an uncircumcision in the soul of a grown man to an inward and real impurity? How vain again was that law to impose tedious expiations for every slight sin of ignorance and error, and to privilege without penance or disturbance an odious crime whether of ignorance or obstinacie? How unjust also inflicting death and extirpation for the mark of circumstantiall purenes omitted, and proclaiming all honest and liberall indemnity to the act of a substantiall impurenesse committed, making void the cov'nant that was made against it. Thus if we consider the tenor of the Law, to be circumcis'd and to perform all, not pardoning so much as the escapes of error and ignorance, and compare this with the condition of the Gospel, beleeve and be baptiz'd; I suppose it cannot be long ere we grant that the Jew was bound as strictly to the performance of every duty as was possible, and therefore could not be dispenc't with more then the Christians, perhaps not so much.

## CHAP. VII.

*That the Gospel is apter to dispencc then the Law: Parvus answered.*

**I**F then the Law will afford no reason why the Jew should be more gently dealt with then the Christian, then surely the Gospel can afford as little why the Christian should be lesse gently dealt with then the Jew. The Gospel indeed exhorts to highest perfection, but bears with weakest infirmity more then the Law. Hence those indulgencies, *All cannot receive this saying. Every man hath his proper gift*, with expresse charges not to lay on yokes which our fathers could not bear. The nature of man still is as weak and yet as hard, and that weakness and hardnesse as unfit and as unteachable to be harshly used as ever. I but saith *Parvus*, there is a greater portion of Spirit powred upon the Gospel, which requires from us perfecter obedience. I answer, This does not prove that the Law therefore might give allowance to sin more then the Gospel; and if it were no sin, we know it the work of the Spirit to mortifie our corrupt desires and evill concupiscence; but not to root up

our naturall affections and disaffections moving to and fro even in wisest men upon just & necessary reasons which were the true ground of that *Mosaick* dispence, and is the utmost extent of our pleading. What is more or lesse perfect we dispute not, but what is sin or no sin; and in that I will affirm the Law required as perfect obedience as the Gospel: besides that the prime end of the Gospel is not so much to exact our obedience, as to reveal grace and the satisfaction of our disobedience. What is now exacted from us, it is the accusing Law that does it even yet under the Gospel; but cannot be more extreme to us now, then to the Jews of old: for the Law ever was of works, and the Gospel ever was of grace.

Either then the Law by harmlesse and needfull dispences which the Gospel is now made to deny, must have anticipated and exceeded the grace of the Gospel, or els must be found to have given politick and superficial graces without real pardon, saying in generall do this and live, and yet deceiving and damning under hand, with un-found and hollow permissions, which is utterly abhorring from the end of all Law, as hath bin shewed. But if those indulgences were safe and sinles out of tendernes and compassion, as indeed they were, and yet shall be abrogated by the Gospel, then the Law, whose end is by rigor to magnifie grace, shall it self give grace, and pluck a fair plume from the Gospel, instead of hastning us thither, alluring us from it. And wheras the terror of the Law was as a servant to amplifie and illustrat the mildnesse of grace; now the unmildnesse of Evangelick grace shall turn servant to declare the grace and mildnesse of the rigorous Law. The Law was harsh to extoll the grace of the Gospel, and now the Gospel by a new affected strictnes of her own, shall extenuate the grace which her self offers. For by exacting a duty which the Law dispencet, if we perform it, then is grace diminisht, by how much performance advances, unlesse the Apostle argue wrong: if we perform it not, and perish for not performing, then are the conditions of grace harder then those of rigor. If through Faith and Repentance we perish not, yet grace still remains the lesse, by requiring that which rigor did not require, or at least not so strictly. Thus much therefore to *Paraw*, that if the Gospel require perfecter obedience then the Law as a duty, it exalts the Law and debases it self, which is dishonourable to the work of our Redemption. Seeing therefore that all the causes of any allowance that the Jews might have, remain as well to the Christians, this is a certain rule, that so long

long as the causes remain the allowance ought. And having thus at length enquired the truth concerning Law and dispence, their ends, their uses, their limits, and in vvhhat manner both Jewv and Christian stands liable to the one, or capable of the other, vve may safely conclude, that to affirm the giving of any lawv, or lawv-like dispence to sin for hardnes of heart, is a doctrine of that extravagance from the sage principles of piety, that vvhoso considers throughly, cannot but admire, howv this hath been digested all this vvhile.

# CHAP. VIII.

*The true sence how Moses suffered divorce for hardnesse of heart.*

**VV**Hat may vve do then to salve this seeming inconsistency? I must not dissemble that I am confident it can be done no other vvay then this.

*Moses* Deut. 24. 1. establisht a grave and prudent Law, full of moral equity, full of due consideration towards nature, that cannot be resisted; a Law consenting with the Laws of wisest men and civilest Nations. That when a man hath married a wife, if it come to passe he cannot love her by reason of some displeasing natural quality or unfines in her, let him write her a bill of divorce. The intent of which law undoubtedly was this, that if any good & peaceable man should discover some helpes disagreement or dislike either of mind or body, wherby he could not cheerfully perform the duty of a husband without the perpetuall dissembling of offence and disturbance to his spirit, rather then to live uncomfortably and unhappily both to himself and to his wife, rather then to continue undertaking a duty which he could not possibly discharge, he might dismisse her whom he could not tolerably and so not conscionably retain. And this law the Spirit of God by the mouth of Solomon, Pro. 30. 21. 23. testifies to be a good and a necessary Law; by granting it that a *bated woman* (for so the Hebrew word signifies, rather then odious though it ceay a to one) that a *bated woman* when she is married, is a thing that the earres not bear. What follows then but that the charitable Law must re- nce what nature cannot undergo. Now that many licentious and vice hearted men took hold of this Law to cloak their bad purposes, is nothing strange to beleve. And these were they, not for whom *Mose* made the Law, God forbid, but whose hardnes of heart taking ill advantage by this law he held it better to suffer as by accident, when it could not be detected, rather then good men should loose their ja,

and lawfull priviledge of remedy: Christ therefore having to answer these tempting Pharises, according as his custom was, not meaning to inform their proud ignorance what *Moses* did in the true intent of the law, which they had ill cited, suppressing the true cause for which *Moses* gave it, and extending it to every slight matter, tels them their own, what *Moses* was forc't to suffer by their abuse of his Law. Which is yet more plain if we mark that our Saviour in *Matth.* 5. cites not the Law of *Moses*, but the Pharisaicall tradition falsly grounded upon that law. And in those other places, Chap. 19. and *Mark.* 10. the Pharises cite the Law, but conceal the wise and human reason there expressed; which our Saviour corrects not in them, whose pride deserv'd not his instruction, only returns them what is proper to them; *Moses for the hardnesse of your heart suffer'd you*, that is, such as you to put away your wives; and to you he wrote this precept for that cause, which (to you) must be read with an impression, and understood limitedly of such as cover'd ill purposes under that Law: and it was seasonable that they should hear their own unbounded licence rebuk't, but not seasonable for them to hear a good mans requisit liberty explain'd. But us he hath taught better, if we have ears to hear. He himself acknowledg'd it to be a Law, *Mark* 10. and being a law of God, it must have an undoubted end of charity, which may be us'd with a pure heart, a good conscience, and faith unsained, as was heard: it cannot allow sin, but is purposely to resist sin, as by the same chap. to *Timothy* appears. There we learn also that the Law is good, if a man use it lawfully. Out of doubt then there must be a certain good in this Law which *Moses* willingly allow'd, and there might be an unlawfull use made therof by hypocrites; and that was it which *Moses* unwillingly suffer'd; foreseeing it in general, but not able to discern it in particulars. Christ therefore mentions not here what *Moses* and the Law intended: for good men might know that by many other rules: and the scornfull Pharises were not fit to be taught, untill they could imploy that knowledge they had, lesse abusions. Only he acquaints them with what *Moses* by them was put to pentance that v:

#### CHAP. IX.

much words of the Institution how to be understood; and of our Saviours answer  
ence his Disciples.

whic And to entertain a little their overweening arrogance as best be-  
the fitted, and to amaze them yet further, because they thought it no  
in. d matter to fulfill the Law, he draws them up to that unseparable  
institu.

inſtitution which God ordain'd in the beginning before the fall; when man and woman were both perfect, and could have no cauſe to ſeperate: juſt as in the ſame Chap. he ſtands not to contend with the arrogant young man who beaſted his obſervance of the whole Law, whether indeed he had kept it or not, but ſkrues him up higher to a taſk of that perfection, which no man is bound to imitate. And in like manner that pattern of the firſt inſtitution he ſet before the opinionative Pharifees to dazle them and not to bind us. For this is a ſolid rule, that every command giv'n with a reaſon, binds our obedience no otherwiſe then that reaſon holds. Of this ſort was that command in Eden; *Therefore ſhall a man cleave to his wife, and they ſhall be one fleſh*: which we ſee is no abſolute command, but with an interence, *Therefore*: the reaſon then muſt be firſt conſider'd, that our obedience be not miſ-obedience. The firſt is, for it is not ſingle, becauſe the wife is to the husband *ſleſh of his fleſh*, as in the verſe going before. But this reaſon cannot be ſufficient of it ſelf; for why then ſhould he for his wife leave his father and mother, with whom he is farre *more fleſh of fleſh and bone of bone* as being made of their ſubſtance. And beſides it can be but a ſorry and ignoble ſociety of life, whoſe unſeperable injunction depends meerly upon fleſh and bones. Therefore we muſt look higher, ſince Chriſt himſelf recalls us to the beginning, and we ſhall finde that the primitive reaſon of never divorcing, was that ſacred and not vain promiſe of God to remedy mans loneliness by *making him a meet help for him*, though not now in perfection, as at firſt; yet ſtill in proportion as things now are. And this is repeated verſ. 20. when all other creatures were fitly aſſociated and brought to *Adam*, as if the divine power had bin in ſome care and deep thought, becauſe *there was not yet found a help meet for man*. And can we ſo ſlightly depreſſe the all-wiſe purpoſe of a deliberating God, as if his conſultation had produc't no other good for man but to joyn him with an accidentall companion of propagation, which his ſudden word had already made for every beaſt? nay a farre leſſe good to man it will be found, if the muſt at all adventures be faſten'd upon him individually. And therefore even plain ſence and equity, and, which is above them both, the all-interpreting voice of Charity her ſelfe cries loud that this primitive reaſon, this conſulted promiſe of God *to make meet help*, is the onely cauſe that gives authority to this command of not divorcing, to be a command. And it might be further added, that if the true definition of a wife were aſkt in good earneſt, this claue being a *meet help* would ſhew it ſelfe

unnecessary, and so essential in that demonstrative argument, that it  
 might be logically concluded: that were the woman naturally and per-  
 petually in need of help, and no wife; which clearly takes away  
 the difficulty of dissolving such a tie. It must be not thought enough,  
 I answer yet further, that marriage, unless it mean a fit and to enable  
 marriage, is not inseparable neither by nature nor institution. \* Nor  
 by nature for then those Mosack divorces had in against nature, if  
 separable and inseparable be contraries, as who doubts they be: and  
 what is against nature is against Law. it is our self Pyriosophy abuse  
 us not: by this reckoning *Moses* should be most unmosack, that is,  
 most illegall, not to say most unnatural. Nor is it inseparable by  
 the first institution: for the first no second institution in the same Law  
 for so many causes could dissolve it: it being most unworthy a di-  
 vine (as *Plato's* judgment is in the fourth booke of his Lawes) much  
 more a divine Law-giver to write two severall decrees upon the same  
 thing. But what would *Plato* have deem'd it the one of these were  
 good, the other evill to be done? Lastly, suppose it bee inseparable  
 by institution, yet in competition with higher things, as religion  
 and charity in mainest matters, and when the chiefe end is frustrate  
 for which it was ordain'd, as hath been shown, if it still it must remain  
 inseparable it holds a strange and lawlesse propriety from all other  
 works of God under heaven. From these many considerations  
 we may safely gather, that so much of the first institution as our  
 Saviour mentions, for he mentions not all, was but to quell and put  
 to non-plus the tempting Pharisees; and to lay open their ignorance  
 and shallow understanding of the Scriptures. For, saith he, *have ye*  
*not read that he which made them at the beginning, made them male and*  
*female, and said for this cause shall a man cleave to his wife?* which these  
 blind usurpers of *Moses* chaire could not gainsay: as if this single re-  
 spect of male and female were sufficient against a thousand incon-  
 veniences and mischiefs, to clogge a rationall creature to his end-  
 lesse sorrow unelinguishably, under the guise of a supeription of  
 his intended solace and comfort. What if they had thus answer'd  
 Master, if thou meane to make wedlock as inseparable as it was from  
 the beginning, let it be made also a fit society. as God meant it, which  
 we shall soon understand it ought to be, if thou recite the whole  
 reason of the law. Doubtlesse our Saviour had applauded their just  
 answer. For then they had expounded this command of Paradise,  
 even as *Moses* himselfe expounds it by his lawes of divorce, that is,  
 with due and wise regard had to the premises and reasons of the first



command, according to which, without unclean and temporizing permissions he instructs us in this imperfect state what we may lawfully doe about divorce.

But if it be thought that the Disciples offended at the rigour of Christs answer, could yet obtain no mitigation of the former sentence pronounc't to the Pharises, it may be fully answer'd, that our Saviour continues the same reply to his Disciples, as men leaven'd with the same customary licence, which the Pharises maintain'd, and displeas'd at the removing of a traditionall abuse whereto they had so long not unwillingly bin us'd: it was no time then to contend with their slow and prejudiciall belief, in a thing wherein an ordinary measure of light in Scripture, with some attention might afterwards inform them well enough. And yet ere Christ had finish'd this argument, they might have pickt out of his own concluding words, an answer more to their minds, and in effect the same with that which hath been all this while entreating audience. *All men,* said he, *cannot receive this saying save they to whom it is given, he that is able to receive it let him receive it.* What saying is this which is left to a mans choice to receive or not receive? What but the married life. Was our Saviour so mild and so favourable to the weaknesse of a single man, and is he turn'd on the sudden so rigorous and inexorable to the distresses and extremities of an ill wedded man? Did hee so graciously give leave to change the better single life for the worse married life? Did he open so to us this hazardous and accidentall doore of marriage to shut upon us like the gate of death without retracting or returning, without permitting to change the worst, most insupportable, most unchristian mischance of marriage for all the mischiefs and sorrowes that can ensue, being an ordinance which was especially giv'n as a cordiall and exultating cup of solace the better to beare our other crosses and afflictions? questionlesse this were a hardheartednesse of undivorcing, worse then that in the Jewes which they say extorted the allowance from *Moses*, and is utterly dissenant from all the Doctrine of our Saviour. After these considerations therefore to take a law out of Paradise giv'n in time of originall perfection, and to take it barely without those just and equall inferences and reasons which mainly establish it, nor so much as admitting those needfull and safe allowances wherewith *Moses* himselfe interprets it to the fall'n condition of man, argues nothing in us but rashnesse and contempt of those meanes that God left us in his pure and chaste Law, without which it will not be possible.

sible for us to performe the strict imposition of this command : or if we strive beyond our strength , we shall strive to obey it otherwise then God commands it. And lamenred experience daily teaches the bitter and vain fruits of this our presumption , forcing men in a thing wherein we are not able to judge either of their strength , or of their sufferance. Whom neither one vice or other by naturall addiction , but onely marriage twins , which doubtlesse is not the fault of that ordinance , for God gave it as a blessing , nor alwayes , of mans mis-choosing ; it being an error above wisdom to prevent , as examples of wisest men to mistaken manifest : it is the fault therefore of a perverse opinion that will have it continu'd in despite of nature and reason , when indeed it was never truly joyn'd. All those expositors upon the fifth of *Mathew* confesse the Law of *Moses* to be the Law of the Lord , wherein no addition or diminution hath place ; yet coming to the point of divorce ; as if they fear'd not to be call'd least in the Kingdome of heav'n , any slight evasion will content them to reconcile those contradictions which they make betweene Christ and *Moses* , between Christ and Christ.

## CHAP. X.

*The vain shift of those who make the law of divorce to be onely the premises of a succeeding law.*

SOME will have it no Law , but the granted premises of another Law following . contrary to the words of Christ , *Mark* 10. 5. and all other translations of gravest authority , who render it in form of a Law ; agreeable to *Malach* 2. 16. as it is most ancient and modernly expounded. Besides the bill of divorce and the particular occasion therein mention'd , declares it to bee orderly and legall. And what avails this to make the matter more righteous , if such an adulterous condition shall be mention'd to build a law upon without either punishment , or so much as forbidding ; they pretend it is implicitly reprov'd in these words , *Deut.* 24. 4. *after she is defil'd* ; but who sees not that this defilement is onely in respect of returning to her former husband after an intermixt marriage ; els why was not the defiling condition first forbid'n , which would have sav'd the labour of this after law ; nor is it seemly or piously attributed to the justice of God and his known hatred of sinne , that such a hainous fault as this through all the Law , should be onely w<sup>p</sup>r with an implicit and oblique touch ( which yet is falsely suppos'd ) and that his peculiar

peculiar people should he let wallow in adulterous marriages almost two thousand yeares for want of a direct Law to prohibit them; 'tis rather to be confidently assum'd that this was granted to apparent necessities, as being of unquestionable right and reason in the Law of nature, in that it still passes without inhibition, ev'n when greatest caue is giv'n us to expect it should be directly forbid'n.

# CHAP. XI.

*The other shift of saying divorce was permitted by Law, but not approv'd. More of the institution.*

**B**Ut it was not approv'd. So much the worse that it was allow'd, as if sin had over-matterd the word of God, so conform her steddily and strait rule to sins crookednesse, which is impossible. Besides, what needed a positive grant of that which was not approv'd? it restrain'd no liberty to him that could but use a little fraud, it had bin better silenc't, unlesse it were approv'd in some case or other. But still it was not approv'd. Miserable excusers! He who doth evil that good may come thereby, approves not what he doth, and yet the grand rule forbids him, and counts *his damnation* just, if hee doe it. The Sorceresse *Medea* did not approve her owne evil doings, yet lookt not to be excus'd for that; and it is the constant opinion of *Plato* *Protagoras* and other of his dialogues agreeing with that proverbiall sentence among the *Greekes*, that *no man is wicked willingly*: which also the *Peripateticks* do rather distinguish then deny. What great thanks then if any man reputed wise and constant, will neither doe nor permit others under his charge to doe that which hee approves not, especially in matter of sinne. But for a Judge, but for a Magistrate and Shepheard of his people to surrender up his approbation against law and his own judgement to the obstinacie of his heard, what more un-Judge-like more un-Magistrate-like, and in warre more un-commander-like? Twice in a short time it was the undoing of the Roman State, first when *Pompey* next when *Marcus Brutus* had not magnanimity enough but to make to poore a resignation of what they approv'd, to what the boisterous Tribunes and Souldiers bawld for. Twice it was the saving of two the greatest Common-wealths in the world, of *Athens* by *Themistocles* at the Sea fight of *Salamis*; of *Rome* by *Fabius Maximus* in the *Punicke* warre, for that theſe two matchlesse Generalls had the fortitude at home against the rashnes and the clamours of their own Captaines and confederates to withstand the doing or permitting of what they

could not approve in the duty of their great command. Thus farre of civill prudence. But when we speake of sinne, let us look again upon the old reverend *Eli*; who in his heavie punishment found no difference betweene the doing and permitting of what he did not approve. If hardnesse of heart in the people may be any excuse, why then is *Pilate* branded through all memory? Hee approv'd not what he did, he openly protested, he washt his hands and laboured not a little, ere he would yeeld to the hard hearts of a whole people, both Princes and plebeians importuning and tumulting ev'n to the feare of a revolt, Yet is there any will undertake his cause? If therefore *Pilate* for suffering but one act of cruelty against law; though with much unwillingnesse testify'd, at the violent demand of a whole Nation; shall stand so black upon record to all posterity? Alas for *Moses*; what shall we say for him, while we are taught to beleieve he suffer'd not one act onely both of cruelty and uncleannesse in one divorce, but made it a plain and lasting law against law whereby ten thousand acts accounted both cruell and uncleane, might be dayly committed, and this without the least suit or petition of the people that wee can read of.

And can we conceive without vile thoughts, that the Majesty and holines of God could endure so many ages to gratifie a stubborne people in the practice of a foul polluting sin, and could he expect they should abstaine, he not signifying his mind in a plaine command, at such time especially when he was framing their laws and them to all possible perfection? But they were to look back to the first institution, nay rather why was not that individuall institution brought out of Paradise, as was that of the Sabbath, and repeated in the body of the Law, that men might have understood it to be a command? for that any sentence that beares the resemblance of a precept, set there so out of place in another world at such a distance from the whole Law, and not once mention'd there, should be an obliging command to us, is very disputable, and perhaps it might be deny'd to be a command without further dispute: however, it commands not absolutely, as hath bin clear'd, but onely with reference to that precedent promise of God, which is the very ground of his institution; if that appeare not in some tolerable sort, how can wee affirm such a matrimony to be the same which God instituted. In such an accident it will best behove our sobernesse to follow rather what moral *Sancti* prescriber equal to our strength, than fondly to chink within our strength at that lost Paradise relates.

CHAP. XII.

*The third shift of them who esteem it a meere judicial Law. Prov'd again to be a Law of moral equity.*

**A**Nother while it shall suffice them, that it was not a moral but a judicial Law and so was abrogated. Nay rather not abrogated, because judicial: which Law the ministry of Christ came not to deal with. And who put it in mans power to exempt, where Christ speaks in general of not abrogating *the least jot or tittle*, and in special not that of divorce, because it follows among those Laws, which he permit'sd expressly not to abrogate but to vindicate from abusive traditions: which is most evidently to be seen in the 16 of *Luke*, where this caution of not arrogating is inserted immediatly, and not otherwise then purposely, when no other point of Law is touch'd, but that of divorce. And if we mark the 31. verse of *Matth.*, he there cites not the Law of *Moses*, but the licentious Glossie which traduc't the Law; that therefore which he cited, that he abrogated, and not only abrogated but disallow'd and flatly condemn'd, which could not be the Law of *Moses*; for that had bin sou'ely to the rebuke of his great servant. To abrogate a Law made with Gods allowance, had bin to tell us onely that such a Law was now to cease: but to refuse it with an ignominious note of civilizing adultery, casts the reproof, which was meant onely to the Pharisees, ev'n upon him what made the Law. But yet if that be judicial which belongs to a civil Court, this Law is lesse judicial then nine of the ten Commandements; for antiquaries affirme that divorces proceeded among the Jews without knowledge of the Magistrate, only with hands and scales under the testimony of some Rabbies to be then present. *Perkins* in a *Treatise of Conscience* grants that what in the judicial Law is of common equity, binds also the Christian. And how to judge of this, prescribes 2 wayes. If wise Nations have enacted the like decree Or if it maintain the good of family, Church or Common-wealth. This therefore is a pure moral *economical* Law, not hastily imputed of tolerating sin; being rather so cleere in nature and reason, that it was left to a mans own arbitrement to be determin'd between God and his own conscience; not only among the Jews, but in every wise nation; the restraint wherof, who is not too thick sighted, may see how hurtfull and distractive it is to the house, the Church and Common-wealth. And that power which Christ never tooke from thematter of family, but rectify'd onely to a right and wary use at home; that power the undiscerning

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Canonist hath improperly usurp'd into his Court-leave, and bescrib'd with a thousand trifling impertinencies, which yet have fill'd the life of man with serious trouble and calamity. Yet grant it were of old a judiciall Law, it need not be the lesse morall for that, being consentant, as it is, about vertue or vice. And our Saviour disputes not heer the judicature, for that was not his office, but the morality of divorce, whether it be adultery or no; if therefore he touch the law of Moses at all, he touches the morall part thereof, which is absurd to imagine that the cov'nant of grace should reforme the exact and perfect law of works, eternall and immutable, or if he touch not the Law at all, then is not the allowance thereof disallow'd to us.

### CHAP. XIII.

*The ridiculous opinion that divorce was permitted from the custom in Egypt. That Moses gave not this Law unwillingly. Perkins confesses this Law was not abrogated.*

**O**thers are so ridiculous as to allege that this licence of divorcing was giv'n them because they were so accustom'd in Egypt. As if an ill custome were to be kept to all posterity; for the dispensation is both universall and of time unlimited, and so indeed no dispensation at all; for the over-dated dispensation of a thing unlawfull, serves for nothing but to increase hardnesse of heart, and makes men but wax more incorrigible, which were a great reproch to be said of any Law or allowance that God should give us. In these opinions it would be more Religion to advise well, lest we make our selves juster then God, by censuring rashly that for sin which his unspotted Law without rebukes allowes, and his people without being conscious of displeasing him have us'd. And if we can thinke so of Moses, as that the Jewish obstinacy could compell him to write such impure permissions against the word of God and his owne judgement, doubtles it was his part to have protested publicly what straits he was driv'n to, and to have declar'd his conscience when he gave any Law against his mind; for the Law is the touch-stone of sinne and of conscience, must not be intermixt with corrupt indulgences; for when it looses the greatest praise it has, of being certain and infallible, not leading into error, as the Jewes were led by this connivence of Moses if it were a connivence. But still they fly back to the primitive institution, and would have us re-enter Paradise against the sword that guards it. Whom I again thus reply to that the place in Genesis remains the description of a fit and perfect marriage, with



an interdict of ever divorcing such a union; but where nature is discover'd to have never joyn'd indeed, but vehemently seeks to part, it cannot be there conceiv'd that God forbids it; nay he commands it both in the Law and in the Prophet *Malachy*, which is to be our rule. And *Perkins* upon this chap. of *Matth.* deals plainly, that our Saviour heer confutes not *Moses* Law, but the false glosses that deprav'd the Law; which being true, *Perkins* must needs grant, that something there is left to that law which Christ found no fault with; and what can that be but the conscionable use of such liberty as the plain words import? So that by his own inference, Christ did not absolutely intend to restrain all divorces to the onely cause of adultery. This therefore is the true scope of our Saviours will, that he who looks upon the law concerning divorce, should look also back upon the first institution, that he may endeavour what is perfectest; and he that looks upon the institution should not refuse as sinfull and unlawfull those allowances which God affords him in his following Law, lest he make himself purer then his maker; and presuming above strength, slip into temptations irrecoverably. For this is wonderfull, that in all those decrees concerning marriage, God should never once mention the prime institution to dissuade them from divorcing; and that he should forbid smaller sins as opposite to the hardnesse of their hearts, and let this adulterous matter of divorce passe ever unreprieved.

This is also to be marvelled, that seeing Christ did not condemn whatever it was that *Moses* suffered, and that therupon the Christian Magistrate permits usury and open stews, and here with us adultery to be so slightly punisht, which was punisht by death to these hard hearted Jews, why we should strain thus at the matter of divorce, which may stand so much with charity to permit, & make no scruple to allow usury esteem'd to be so much against charity. But this it is to embroile our selves against the righteous and all-wise Judgements and Statutes of God; which are not variable and contrarious, as we would make them, one while permitting and another while forbidding, but are most constant and most harmonious each to other. For how can the uncorrupt & majestic Law of God, bearing in her hand the wages of life and death, harbour such a repugnance within her self, as to require an unexempted and impartiall obedience to all her decrees, either from us or from our Mediator, and yet debase her self to faulter so many ages with circumcis'd adulteries, by unclean and slubbering permissions.

## CHAP. XIV.

*That Beza's opinion of regulating sin by apostolick law, cannot be sound.*

**Y**ET Beza's opinion is that a politick Law, but what politick Law I know not, unlesse one of *Marchiauel's*, may regulate sin; may hear indeed, I grant, with imperfection for a time, as those Canons of the Apostles did in ceremoniall things: but as for sin, the essence of it cannot consist with rule; and if the law fall to regulate sin, and not to take it utterly away, it necessarily confirms and establishes sin. To make a regularity of sin by law, either the law must straiten sin into no sin, or sin must crook the law into no law. The Judiciall law can serve to no other end then to be the protector and champion of Religion and honest civility, as is set down painly, *Rom. 13.* and is but the arm of morall law, which can no more be separate from justice then justice from vertue: their office also in a different manner steers the same cours; the one teaches what is good by precept, the other unteaches what is bad by punishment. But it we give way to politick dispensations of lewd uncleannesse, the first good consequence of such a relaxe will be the justifying of Papal stews, joyn'd with a toleration of epidemick whordom. Justice must revolt from the end of her authority, and become the patron of that wherof she was created the punisher. The example of usury which is commonly alleg'd, makes against the allegation which it brings, as I touch'd before. Besides that usury, so much as is permitted by the Magistrate, and demanded with common equity, is neither against the word of God, nor the rule of charity, as hath bin often discuss't by men of eminent learning and iudgement. There must be therefore some other example found out to shew us wherein civill policie may with warrant from God settle wickednes by law, and make that lawfull which is lawlesse. Although I doubt not but upon deeper consideration, that which is true in Physick, will be found as true in policie: that as of bad pulses those that beat most in order, are much worse then those that keep the most inordinat circuit, so of popular vices those that may be committed legally, will be more pernicious then those that are left to their own cours at perill, not under a stinted priviledge to sin orderly and regularly, which is an implicit contradiction, but under due and fearlessse execution of punishment.

The politicall law, since it cannot regulate vice, is to restrain it, by using all means to root it out: but if it suffer the weed to grow up to  
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any pleasurable or contented height upon what pretext soever, it faltens the root, it prunes and dresses vice, as if it were a good plant. Let no man doubt therefore to affirm that it is not so hurtfull or dishonourable to a Common-wealth, nor so much to the hardning of hearts, when those worse faults pretended to be feared are committed, by who so dares under strict and executed penalty, as when those lesse faults tolerated for fear of greater harden their faces, not their hearts only, under the protection of publick authority. For what lesse indignity were this, then as if Justice her self the Queen of vertues, descending from her scepter'd royalty, instead of conquering, should compound and treat with sin her eternall adversary and rebell, upon ignoble terms. Or as if the judiciall Law were like that untruity steward in the Gospel, and instead of calling in the debts of his morall master, should give out subtle and sly acquittances to keep himself from begging. Or let us person him like some wretched itinerary Judge, who to gratifie his delinquents before him, would let them basely break his head, lest they should pull him from the bench, and throw him over the barre. Unlessse we had rather think both morall and judiciall full of malice and deadly purpose conspir'd to let the debtor Israelite the seed of *Abraham* run on upon a banckrout score, flattered with insufficient and insnaring discharges, that so he might be haled to a more cruell forfeit for all the indulgent arrears which those judiciall acquittments had engaged him in. No no, this cannot be, that the Law vvwhose integritie and faithfulnessse is next to God, should be either the shamelesse broker of our impunities, or the intended instrument of our destruction. The method of holy correction such as became the Common-wealth of *Israel*, is not to bribe sin vvith sin, to capitulate and hire out one crime vvith another: but vvith more noble and gracefull severity then *Popilius* the *Roman* legal used vvith *Antiochus*, to limit and levell out the direct vvay from vice to vertue, vvith straightest and exactest lines on either side, not vvinding, or indenting so much as to the right hand of fair pretences. Violence indeed and insurrection may force the Law to suffer vvhat it cannot mend: but to vvrite a decree in allowance of sin, as soon can the hand of Justice rot off. Let this be ever concluded as a truth that vvill outlive the faith of those that seek to bear it down.

## CHAP. XV.

*That divorce was not given for wives only, as Beza and Parsons write. More of the Institution.*

**L**ASTly, if divorce were granted, as *Beza* and others say, not for men but to release afflicted wives; certainly it is not only a dispensation, but a most mercifull Law: and why it should not yet be in force, being wholly as needfull, I know not what can be in cause but senselesse cruelty. But yet to say, divorce was granted for relief of wives, rather then of husbands, is but weakly conjectur'd, and is manifest the extreme shift of a huddl'd exposition. Whenas it could not be found how hardnesse of heart should be lessen'd by liberty of divorce, a fancy was devis'd to hide the flaw by commenting that divorce was permitted only for the help of wives. Palpably uxorious! Who can be ignorant that woman was created for man, and not man for woman; and that a husband may be injur'd as insufferably in marriage as a wife. What an injury is it after wedlock not to be below'd, what to be slighted, what to be contended with in point of house-rule who shall be the head, not for any parity of wisdom, for that were something reasonable, but out of a female pride. *I suffer not* saith *S. Paul*, *the woman to usurp authority over the man*. If the Apostle could not suffer it, into what mould is he mortify'd that can? *Solomon* saith that a bad wife is to her husband, as rott'nesse to his bones, a continuall dropping: better dwell in a corner of the house top, or in the wilderness then with such a one. *Who so hideth her hideth the wind, and one of the foure mischiefs that the earth cannot bear*. If the Spirit of God wrote such aggravations as these, and as may be guess by these similitudes, counsels the man rather to divorce then to live with such a colleague, and yet on the other side expresses nothing of the wives suffering with a bad husband; is it not most likely that God in his Law had more pittie towards man thus wedlockt, then towards the woman that was created for another. The same Spirit relates to us the cours which the *Medes* and *Persians* took by occasion of *Vashti*, whose meer deniall to come at her husbands sending lost her the being Queen any longer, and set up a wholsom Law, that every man should bear rule in his own house. And the divine relater shews us not the least signe of disliking what was done; how should he? if *Moses* long before was nothing lesse mindfull of the honour and preeminence due to man. So that to say divorce was granted for woman rather then man, was but fondly invented.

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Esteeming therefore to have asserted thus an injur'd law of *Moses* from the unwarranted and guilty name of a dispensation, to be again a most equall and requisite law, we have the word of Christ himself, that he came not to alter the least tittle of it; and signifies no small displeasure against him that shall teach to do so. On which relying, I shall not much waver to affirm, that those words which are made to intimate, as if they forbid all divorce but for adultery (though *Moses* have constituted otherwise) those words tak'n circumscrip'tly, without regard to any precedent law of *Moses* or attestation of Christ himself, or without care to preserve those his fundamentall and superior laws of nature and charity, to which all other ordinances give up their seal, are as much against plain equity, and the mercy of religion, as those words of *Take, eat, this is my body*, elementally understood, are against nature and sense.

And surely the restoring of this degraded law, hath well recompenc't the diligence was us'd, by enlightning us further to find out wherfore Christ took off the Pharises from alleging the law, and refer'd them to the first institution, not condemning, altring, or abolishing this precept of divorce, which is plainly moral, for that were against his truth, his promise, and his prophetick office; but knowing how fallaciously they had cited, and conceal'd the particular and naturall reason of the Law, that they might justifie any froward reason of their own, he lets go that sophistry unconvinc't, for that had bin to teach them else, which his purpose was not. And since they had tak'n a liberty which the law gave not, he amuses and repels their tempting pride with a perfection of Paradise, which the law requir'd not; not therby to oblige our performance to that wherto the law never enjoyn'd the sal'n estate of man; for if the first institution must make wedlock what ever happen, inseparable to us, it must make it also as perfect, as meetly helpfull, and as comfortable, as God promis'd it should be, at least in some degree; otherwise it is not equall or proportionable to the strength of man, that he should be reduc't into such indissoluble bonds to his assured misery, if all the other conditions of that cov'nant be manifestly alter'd.

CHAP. XVI.

*How to be understood that they must be one flesh: and how that those whom God hath join'd man should not sunder.*

**N**EXT he saith, *they must be one flesh*, which, when all conjecturing is don, will be found to import no more but to make legitimate

and good the carnall act, which els might seem to have something of pollution in it : And inferrs thus much over, that the fit union of their souls be such as may even incorporate them to love and amity ; but that can never be where no correspondence is of the minde ; nay instead of being one flesh, they will be rather two carkasses chain'd unnaturally together ; or as it may happ'n, a living soul bound to a dead corps, a punishment too like that inflicted by the tyrant *Mezentius* ; so little worthy to be receiv'd as that remedy of lonelinese which God meant us. Since we know it is not the joyning of another body will remove lonelinese, but the uniting of another complayable mind, and that it is no blessing but a torment, nay a base and brutish condition to be one flesh, unlesse where nature can in some nature fix a unity of disposition. The meaning therefore of these words, *For this cause shall a man leave his father and his mother and shall cleave to his wife*, was first to shew us the deer affection which naturally grows in every not unnaturall marriage, ev'n to the leaving of parents, or other familiarity whatsoever ; next, it justifies a man in so doing, that nothing is done undutifully to father or mother. But he that should be here sternly commanded to cleave to his error, a disposition which to his he finds will never cement a quotidian of sorrow and discontent in his house, let us be excus'd to pause a little and bethink us every way round ere we lay such a flat solecisme upon the gracious, and certainly not inexorable, not rushlesse and flinty ordinance of marriage. For if the meaning of these words must be thus blockt up within their own letters from all equity and fair deduction, they will serve then well indeed their turn, who affirm divorce to have been granted only for wives ; whenas we see no word of this text binds women, but men only, what it binds. No marvell then if *Salomith* sister to *Herod*, sent a writ of ease to *Costobarus* her husband ; which, as *Josephus* there attests, was lawfull only to men. No marvell though *Placidia* the sister of *Honorius* threat'n'd the like to *Earl Constantius*, for a triviall cause as *Probus* relates from *Olympiodorus*. No marvell any thing if letters must be turn'd into palisadoes to stake out all requisite sence from entring to their due enlargement.

Lastly, Christ himself tels who should not be put asunder, namely, those whom God hath joyn'd. A plain solution of this great controversy, if men would but use their eyes ; for when is it that God may be said to joyn, when the parties and their friends consent ? No surely, for that may concur to lewdest ends. Or is it when Churches rites

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are finisht? Neither; for the efficacy of those depends upon the presupposed fitnessse of either party. Perhaps, after carnall knowledge? Least of all; for that may joyn persons whom neither law nor nature dares joyn: tis left, that only then, when the minds are fitly dispos'd, and enabl'd to maintain a cheerfull conversation, to the solace and love of each other, according as God intended and promis'd in the very first foundation of matrimony, *I will make him a help meet for him*; for surely what God intended and promis'd, that only can be thought to be his joyning, and not the contrary. Solikewise the Apostle witnesseth, *1 Cor. 7. 15.* that in mariage *God hath call'd us to peace.* And doubtlesse in what respect he hath call'd us to mariage, in that also he hath joyn'd us. The rest whom either disproportion or deadnesse of spirit, or something distastfull and averse in the immutable bent of nature renders conjugall, error may have joyn'd, but God never joyn'd against the meaning of his own ordinance. And if he joyned them not, then is there no power above their own consent to hinder them from unjoyning, when they cannot reap the sobrest ends of being together in any tolerable sort. Neither can it be said properly that such twain were ever divorc't, but only parted from each other, as two persons unconjunctive and unmariable together. But if, whom God hath made a fit help, forwardnesse or private injuries hath made unfit, that being the secret of mariage God can better judge then man, neither is man indeed fit or able to decide this matter; however it be, undoubtedly a peacefull divorce is a lesse evil, and lesse in scandall then a hateful hardhearted and destructive continuance of mariage in the judgement of *Moses* and of *Christ*, that justifies him in chusing the lesse evil, which if it were an honest and civill prudence in the law, what is there in the Gospel forbidding such a kind of legall wisdom, though we should admit the common Expositors.

CHAP. XVII.

*The sentence of Christ concerning divorce how to be expounded. What Grotius hath observ'd. Other additions.*

**H**AVING thus unfolded those ambiguous reasons, wherewith *Christ*, as his wont was, gave to the *Pharises* that came to found him, such an answer as they deserv'd, it will not be uneasie to explain the sentence it self now that follows; *Whoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery.* First therefore I will set down what is observ'd by *Grotius* upon this

this point, a man of general learning. Next I produce what mine own thoughts gave me, before I had seen his annotations. *Origē*, saith he, notes that Christ nam'd adultery rather as one example of other like cases, then as one only exception. And that it is frequent, not only in human but in divine Laws, to expresse one kind of fact, whereby other causes of like nature may have the like plea: as *Exod.* 21. 18, 19, 20. 26. *Dent.* 19. 5. And from the maxims of civil Law he shews that ev'n in sharpest penal laws, the same reason hath the same right: and in gentler Laws, that from like causes to like the Law interprets rightly. But it may be objected, saith he, that nothing destroys the end of wedlock so much as adultery. To which he answers, that mariage was not ordain'd only for copulation, but for mutuall help and comfort of life; and if we mark diligently the nature of our Saviours commands, we shall find that both their beginning and their end consists in charity: whose will is that we should so be good to others, as that we be not cruell to our selves. And hence it appears why *Marke*, and *Luke*, and *S. Paul* to the *Corin.* mentioning this precept of Christ, adde no exception: because exceptions that arise from naturall equity, are included silently under generall terms: it would be consider'd therefore whether the same equity may not have place in other cases lesse frequent. Thus farre he. From hence, is what I adde: first, that this saying of Christ, as it is usually expounded, can be no law at all, that a man for no cause should separate but for adultery, except it be a supernaturall law, not binding us as we now are had it bin the law of nature, either the Jews, or some other wise and civill nation would have prest it: or let it be so; yet that law *Dent.* 24. 1. whereby a man hath leave to part, when as for just and naturall cause discover'd he cannot love, is a law ancienter, and deeper ingrav'n in blameles nature then the other: therefore the inspired Law-giver *Moses* took care that this should be specified and allowed: the other he let vanish in silence, not once repeated in the volume of his law, even as the reason of it vanisht with Paradise. Secondly, this can be no new command, for the Gospel enjoyns no new morality, save only the infinit enlargement of charity, which in this respect is called the *new Commandement* by *S. John*; as being the accomplishment of every command. Thirdly, It is no command of perfection further then it partakes of charity, which is *the bond of perfection*. Those commands therefore which compell us to self cruelty above our strength, so hardly will help forward to perfection, that they hinder and set backward in all  
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the common rudiments of Christianity, as was prov'd. It being thus clear, that the words of Christ can be no kind of command, as they are vulgarly tak'n, we shall now see in what sense they may be a command, and that an excellent one, the same with that of *Moses*, and no other. *Moses* had granted that onely for a natural annoyance, defect, or dislike, whether in body or mind (for so the Hebrew words plainly note) which a man could not force himselfe to live with, he might give a bill of divorce, thereby forbidding any other cause wherein amendment or reconciliation might have place. This Law the Pharises depraving, extended to any slight contentious cause whatsoever. Christ therefore seeing where they halred, urges the negative part of that law, which is necessarily understood (for the determinate permission of *Moses* binds them from further licence) and checking their supercilious drift, declares that no accidental, temporary, or reconcileable offence except fornication, can justify a divorce: he touches not here those natural and perpetual hinderances of society, whether in body or in mind; which are not to be remov'd for such, as they are aptest to cause an unchangeable offence, so are they not capable of reconciliation because not of amendment; they do not break indeed, but they annihilate the bands of marriage more then adultery. For that fault committed argues not alwayes a hatred either natural or incidental against whom it is committed; neither does it inferre a disability of future helpfulnesse, or loyalty, or loving agreement, being once past, and pardon'd, where it can be pardon'd: but that which naturally distasts and *findes no favour in the eyes* of matrimony, can never be conceal'd, never appeas'd, never intermitted but proves a perpetuall nullity of love and contentment, a solitude, and dead vacation of all acceptable conversing. *Moses* therefore permits divorce, but in cases onely that have no hands to joyn, and more need separating then adultery. Christ forbids it, but in matters onely that may accord, and those lesse then fornication. Thus is *Moses* Law here plainly confirm'd, and those causes which he permitted, not a jot gainsaid. And that this is the true meaning of this place, I prove by no other an Author then *S. Paul* himselfe, 1 Cor. 7. 10, 11. upon which text Interpreters agree that the Apostle onely repeats the precept of Christ: where while he speaks of the wives reconciliation to her husband, he puts it out of controversie, that our Saviour meant chiefly matters of strife and reconciliation: of which sort he would not that any difference should be the occasion of divorce, except fornication. And that we may learn better how to value

a grave and prudent law of *Moses*, and how unadvisedly we smatter with our lips, when we talk of Christs abolishing any Judiciall law of his great Father, except in some circumstances which are Judicall rather then Judicial, and need no abolishing but cease of themselves, I say again, that this recited law of *Moses* contains a caule of divorce greater beyond compare then that for adultery; and who so cannot so conceive it, errs and wrongs exceedingly a law of deep wisdom for want of well fadoming. For let him mark no man urges the just divorcing of adultery, as it is a sin, but as it is an injury to marriage; and though it be but once committed, and that without malice, whether through importunity or opportunity, the Gospel does not therefore dissuade him who would therefore divorce; but that naturall hatred when ever it arises, is a greater evil in mariage, then the accident of adultery, a greater defrauding, a greater injustice, and yet not blameable, he who understands not after all this representing, I doubt his will like a hard spleen draws faster then his understanding can well sanguifie. Nor did that man ever know or feel what it is to love truly, nor ever yet comprehend in his thoughts what the true intent of marriage is. And this also will be somewhat above his reach, but yet no lesse a truth for lack of his perspective; that as no man apprehends what vice is, so well as he who is truly vertuous, no man knows hell like him who converties most in heav'n, so there is none that can estimate the evil and the affliction of a naturall hatred in matrimony, unlesse he have a soul gentle enough and spacious enough to contemplate what is true love.

And the reason why men so disesteeme this wise judging Law of God, and count hate, or *the not finding of favour*, as it is there term'd, a humorous, a dishonest; and slight cause of divorce; is because themselves apprehend so little of what true concord meanes: for if they did, they would be juster in their ballanting between natural hatred and casuall adultery; this being but a transient injury, and soone amended, I mean as to the party against whom the trespass is: but that other being an unspeakable and unremitting sorrow and offence whereof no amends can be made, no cure, no ceasing but by divorce, which like a divine touch in one moment heals all; and like the word of God, in one instant hushes outrageous tempest into a sudden stilnesse and peacefull calm. Yet all this so great a good of Gods own enlarging to us, is by the hard rains of them that sit us wholly diverted and imbezill'd from us. Maligners of mankind! But who hath taught you to mangle thus, and make more gashes in the

the miseries of a blamelesse creature, with the tedious caggers of your littall decrees, to whose ease you cannot adde the tithe of one small atome, but by letting alone your unhelpfull Surgery. As for such as thinke wandring concupiscence to bee here newly and more precisely forbid'd, then it was before, if the Apostle can convince them; we know that we are to *know lust by the law*, and not by any new discovery of the Gospel. The Law of *Moses* knew what it permitted, and the Gospel knew what it forbid; hee that under a peevisish conceit of debarring concupiscence, shall goe about to make a novice of *Moses*, (not to say a worse thing for reverence sake) and such a one of God himselfe, as is a horror to think, to bind our Saviour in the default of a down-right promise breaking, and to bind the disunions of complaining nature in chains together, and curb them with a canon bit, tis he that commits all the whooredome and adultery, which himselfe adjudges, besides the former guilt so manifold that lies upon him. And if none of these considerations with all their wait and gravity, can avail to the disposing him of his pretious literalism, let some one or other entreat him but to read on in the same 19 of *Math.* till he come to that place that sayes *Some make themselves Eunuchs for the Kingdom of heavens sake.* And if then he please to make use of *Origens* knife, he may doe well to be his own carver.

# CHAP. XVIII.

*Whether the word of our Saviour be rightly expounded only of actual fornication to be the cause of divorce. The opinion of Grotius with other reasons.*

**B**UT because we know that Christ never gave a Judicall Law, and that the word *fornication* is variously significant in Scripture, it will be much right done to our Saviours words, to consider diligently, whether it be meant heere that nothing but actual fornication, prov'd by witnes, can warrant a divorce, for so our canon law judges. Nevertheless as I find that *Grotius* on this place hath observ'd, the Christian Emperours *Theodosius* the second, and *Justinian*, men of high wisdom and reputed piety, decreed it to be a divorfive fornication, if the wife attempted either against the knowledge, or obstinately against the will of her husband, such things as gave open suspection of adulterizing: as the wilfull haunting of feast, and invitations with men not of her neer kindred, the lying forth of her house without probable cause, the frequenting of Theaters against her husbands mind, her endeavour to prevent or destroy conception: Hence that of *Iscrom*, *Where fornication is suspected, the wife may lawfully*

'*be divorc'd*, not that every motion of a jealous mind should be regarded, but that it should not be exacted to prove all things by the visibility of Law witnessing, or els to hood-wink the mind: for the law is not able to judge of these things but by the rule of equity, and by permitting a wife man to walke the middle way of prudent circumspection, neither wretchedly jealous, nor stupidly and tamely patient. To this purpose hath *Grotius* in his notes. He shews also that fornication is tak'n in Scripture for such a continual headstrong behaviour, as tends to plain contempt of the husband: and proves it out of *Judges* 19. 2. where the Levites wife is said to have plaid the whoore against him; which *Josephus* and the *Septuagint*, with the *Chaldean*, interpret onely of stubbornesse and rebellion against her husband: and to this I adde that *Kimchi* and the two other Rabbies who gloss the text, are in the same opinion, *Ben Gersom* reasons, that had it bin whoordome, a Jew and a Levite would have disdain'd to fetch her again. And this I shall contribute, that had it beene whoordome, she would have chosen any other place to run to, then to her fathers house, it being so infamous for an Hebrew woman to play the harlot, and so opprobrious to the parents. Fornication then in this place of the *Judges* is understood for stubborn disobedience against the husband and not for adultery. A sin of that sudden activity as to be already committed, when no more is done, but onely lookt unchastly: which yet I would be loath to judge worthy a divorce, though in our Saviours language it be call'd adultery. Nevertheless when palpable and frequent signes are giv'n, the law of God, *Numb.* 5, so fargave way to the jealousie of a man, as that the woman set before the sanctuary with her head uncover'd, was adjur'd by the Priest to swear whether she were false or no; and constrain'd to drink that bitter water with an undoubted curse of rottenesse and tympany to follow, unlesse she were innocent. And the jealous man had not bin guiltlesse before God, as seems by the last verse, if having such a suspicion in his head, hee should neglect his trial; which if to this day it be not to be us'd, or be thought as uncertaine of effect, as our antiquated law of *Ordealum*, yet all equity will judge that many adulterous demeanours which are of lewd suspicion and example, may be held sufficient to incurre a divorce, though the act it selfe hath not been prov'd. And seeing the generosity of our Nation is so, as to account no reproach more abominable, then to be nick-nam'd the husband of an adulteresse, that our law should not be as ample as the Law of God to vindicate a man from that ignoble

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sufferance, is our barbarous unskillfulnesse, nor considering that the law should be exasperated according to our estimation of the injury. And if it must be suffer'd till the act be visibly prov'd, *Salomon* himselfe whose judgement will be granted to surpass the acutenesse of any Canonist. confesses, *Pro. 30. 19. 20.* that for the act of adultery it is as difficult to be found as the track of an Eagle in the ayre, or the way of a ship in the Sea: so that a man may be put to unmanly indignities, ere it be found out. This therefore may bee enough to inform us, that divorfive adultery is not limited by our Saviour to the utmost act, and that to be attested alwayes by eye witness, but may bee extended also to divers obvious actions, which either plainly lead to adultery, or give such presumption, whereby sensible men may suspect the deed to be already done. And this the rather may bee thought, in that our Saviour chose to use the word *Fornication*, which word is found to signifie other matrimoniall transgressions of main breach to that covenant besides actall adultery. For that sinne needed not the ridance of divorce, but of death by the Law, which was active ev'n till then by the example of the woman tak'n in adultery; or if the Law had been dormant, our Saviour was more likely to have told them of their neglect, then to have let a capitall crime silently scape into a divorce: or if it be said his business was not to tell them what was criminall in the civill Courts, but what was sinfull at the barre of conscience, how dare they then having no other ground then these our Saviours words, draw that into triall of Law, which both *Moses* and our Saviour was left to the jurisdiction of conscience? But wee take from our Saviour, say they, onely that it was adultery and our Law of it selfe applies the punishment. But by their leave that so argue, the great Law-giver of all the world who knew best what was adultery both to the Jew and to the Gentile appointed no such applying, and never likes when mortal men will be vainly presuming to out-strip his justice.

CHAP. XIX.

*Christs manner of teaching. S. Paul adds to this matter of divorce without command to shew the matter to be of equity, not of rigor. That the bondage of a Christian may be as much, and in peace as little in some other marriages besides idolatrous: If those arguments therefore be good in that one case, why not in those other: therefore the Apostle himselfe adds, in this clause.*

**T**Hus at length wee see both by this and by other places, that there is scarce any one saying in the Gospel, but must bee read with limitations and distinctions, to bee rightly understood;

for Christ gives no full comments or continued discourses, but as *Demetrius* the Rhetorician phrases it, speaks oft in Monosyllables, like a maister scattering the heavenly grain of his doctrine like pearl heere and there, which requires a skilfull and laborious gatherer, who must compare the words he findes, with other precepts, with the end of every ordinance, and with the generall *analogie* of Evangelick doctrine: otherwise many particular sayings would bee but strange repugnant riddles; and the Church would offend in granting divorce for frigidity, which is not here accepted with adultery, but by them added. And this was it undoubtedly which gave reason to *S. Paul* of his own authority, as hee professes, and without command from the Lord, to enlarge the seeming construction of those places in the Gospell; by adding a case wherein a person deserted, which is something lesse then divorc't, may lawfully marry again. And having declar'd his opinion in one case, he leaves a further liberty for Christian prudence to determine in cases of like importance; using words so plain as are not to be shifted off, *that a brother or a sister is not under bondage in such cases*, adding also, that *God hath call'd us to peace in marriage*.

Now if it be plain that a Christian may be brought into unworthy bondage, and his religious peace not onely interrupted now and then, but perpetually and finally hinder'd in wedlock by mis-yoking with a diversity of nature as well as of religion, the reasons of *S. Paul* cannot be made speciall to that one case of infidelity, but are of equal moment to a divorce, where ever Christian liberty and peace are without fault equally obstructed. That the ordinance which God gave to our comfort, may not be pinn'd upon us to our undeserved thralldom; to be coopt up as it were in mockery of wedlock, to a perpetual betrothed loneliness and discontent, if nothing worse ensue. There being nought els of marriage left between such, but a displeasing and forc't remedy against the sting of a brutish desire: which fleshly accustoming without the soules union and commixture of intellectuall delight, as it is rather a soiling then a fulfilling of marriage-rites, so is it enough to abase the mettle of a generous Spirit, and sinks him to a low and vulgar pitch of endeavour in all his actions, or, which is worse, leaves him in a dispairing plight of object & hardn'd thoughts: which condition rather then a good man should fall into, a man usefull in the service of God and mankind, Christ himselfe hath taught us to dispence with the most sacred ordinance of his worship, even in a bodily healing to dispence with that holy and speculative rest  
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of Sabbath ; much more then with the erroneous observance of an ill knotted marriage , for the sustaining of an overcharg'd faith and perseverance.

## CHAP. XX.

*The meaning of S. Paul, that Charity beleeveeth all things. What is to be said to the licence which is vainly fear'd will grow hereby. What to those who never have don prescribing patience in that case. The Papist most severe against divorce : yet most easie to all licence. Of all the miseries in marriage God is to be clear'd, and the fault to be laid on mans unjust laws.*

**A**Nd though bad canies would take licence by this pretext, if that cannot be remedied , upon their conscience be it , who shall so doe. This was that hardnesse of heart, and abuse of a good law which *Moses* was content to suffer , rather then good men should not have it at all to use needfully. And he who to run after one lost sheep, left ninety nine of his own flock at randome in the wilderness, would little perplex his thought for the obduring of nine hunder'd and ninety such as will dayly take worlds liberties, whether they have permission or not. To conclude , as without charity God hath giv'n no commandment to men , so without it , neither can men rightly beleeve any commandment giv'n. For every act of true faith , as well that whereby we beleeve the law, as that whereby wee endeavour the law, is wrought in us by charity , according to that in the divine hymne of *St. Paul*, *1 Cor. 13. Charity beleeveeth all things* : not as if she were so credulous , which is the exposition hitherto current, for that were a trivial praise , but to teach us that charity is the high governess of our beleeve , and that we cannot safely assent to any precept writt'n in the Bible, but as charity commends it to us. Which agrees with that of the same Apostle to the *Ephes. 4. 14. 15.* where he tells us that the way to get a sure undoubted knowledge of things, is to hold that for truth , which accords most with charity. Whose unerring guidance and conduct having follow'd as a lead-starre with all diligence and fidelity in this question , I trust , through the help of that illuminating Spirit which hath favour'd me , to have done no every dayes worke : in asserting after many ages the words of Christ with other Scriptures of great concernment from burdensome and remorseles obscurity , tangl'd with manifold repugnances, to their native lustre and consent betweene each other : hereby also dissolving tedious and Gordian difficulties , which have hitherto molested the Church of God, and are now decided not with the sword of *Alexander*, but with

with the immaculate hands of charity, to the unspeakable good of Christendome. And let the extreme literalist sit down now and resolve whether this in all necessity be not the due result of our Saviour's words: or if he persist to be otherwise opinion'd, let him well advise, lest thinking to gripe fast the Gospel, he be found in stead with the canon law in his fist: whose boisterous edicts tyrannizing the blessed ordinance of marriage into the quality of a most unnatural and unchristianly yoke, have giv'n the flesh this advantage to hate it, and turn aside, oft times unwillingly, to all dissolute uncleanness, even till punishment it selfe is weary, and overcome by the incredible frequency of trading lust, and uncontroll'd adulteries. Yet men whose Creed is custome, I doubt not but will be still endeavouring to hide the sloth of their own timorous capacities with this pretext, that for all this tis better to indure with patience and silence this affliction which God hath sent. And I agree tis true; if this be exhorted and not enjoyn'd; but withall it will be wisely done to be as sure as may be, that what mans iniquity hath laid on, be not imputed to Gods sending, least under the colour of an affected patience we detain our selves at the gulphs mouth of many hideous temptations, not to be withstood without proper gifts, which, as *Perkins* well notes, God gives not ordinarily, no not to most earnest pray-ers. Therefore we pray, *Lead us not into temptation*, a vain prayer, if having led our selves thither, we love to stay in that perilous condition. God sends remedies, as well as evils; under which he who lies and groans, that may lawfully acquit himselfe, is accessory to his own ruin: nor will it excuse him, though he suffer through a sluggish fearfulnessse to search thoroughly what is lawfull, for feare of disquieting of a secure falsity of an old opinion. Who doubts not but that it may be piously said, to him who would dismiss frigidity, bear your trial, take it, as if God would have you live this life of continence: if he exhort this, I heare him as an Angell, though he speak without warrant: but if he would compell me, I know him for Satan. To him who divorces an adulteresse, Piety might say; Pardon her; you may shew much mercy, you may win a soul: yet the law both of God and man leaves it freely to him. For God loves not to plow out the heart of our endeavours with over-hard and sad tasks. God delights not to make a drudge of vertue, whose actions must be all elective and unconstrained. For't vertue is as *about* overshoot it goes neither forward nor backward, and does no good as it stands. Seeing therefore that neither Scripture nor reason hath laid this un-

Just austeritie upon divorce, we may resolve that nothing else hath wrought it, but that letter-bound servility of the Canon Doctors, supposing marriage to be a Sacrament, and out of the art they have to lay unnecessary burdens upon all men, to make a fair shew in the fleshly observance of matrimony, though peace and love with all other conjugall respects fare never so ill. And indeed the Papists who are the strictest forbidders of divorce, are the easiest libertines to admit or grossest uncleannesse; as if they had a designe by making wedlock a supportlesse yoke, to violate it most, under colour of preserving it most inviolable: and withall delighting, as their mystery is, to make men the day-labourers of their own afflictions, as if there were such a scarcity of miseries from abroad, that we should be made to melt our choicest home blessings, and coin them into crosses, for want whereby to hold commerce with patience. If any therefore who shall hap to read this discourse, hath been through misadventure ill engag'd in this contracted evill here complain'd of, and finds the fits and workings of a high impatience frequently upon him, of all those wild words which men in misery think to ease themselves by uttering, let him not op'n his lips against the providence of heav'n, or tax the wayes of God and his divine truth: for they are equall, easie, and not burdensome; nor do they ever crosse the just and reasonable desires of men, nor involve this our portion of mortall life, into a necessity of sadnesse and malecontent, by laws commanding over the unreducible *antipathies* of nature sooner or later found: but allow us to remedy and shake off those evils into which human error hath led us through the midst of our best intentions; and to support our incident extremities by that authentick precept of soveran charity; whose grand commission is to do and to dispose over all the ordinances of God to man; that love and truth may advance each other to everlasting. While we literally superstitious through customary faintnesse of heart, not venturing to pierce with our free thoughts into the full latitude of nature and religion, abandon our selves to serve under the tyranny of usurpt opinions, suffering those ordinances which were allotted to our solace and reviving, to trample over us and hale us into a multitude of sorrows which God never meant us. And where he set us in a fair allowance of way, with honest liberty and prudence to our guard, we never leave subtilizing and casuisting till we have straitn'd and par'd that liberall path into a razors edge to walk on, between a precipice of uncecessary mischief on either side: and starting at every false

Alarm, we do not know which way to set a foot forward with manly confidence and Christian resolution, through the confused ringing in our eares of *panick* scruples and amazements.

## CHAP. XXI.

*That the matter of divorce is not to be try'd by Law, but by Conscience, as many other sins are. The Magistrate can only see that the condition of divorce be just and equall. The opinion of Fagius, and the reasons of this assertion.*

**A**Nother act of papall encroachment it was, to pluck the power and arbitrement of divorce from the master of family, into whose hands God and the Law of all Nations had put it, and Christ so left it, preaching onely to the conscience, and not authorizing a judiciall Court to toss about and divulge the unaccountable and secret reasons of disaffection between man and wife, as a thing most improperly answerable to any such kind of triall. But the Popes of Rome perceiving the great revenue and high authority it would give them ev'n over Princes, to have the judging and deciding of such a main consequence in the life of man as was divorce, wrought so upon the superstition of those ages, as to divest them of that right which God from the beginning had entrusted to the husband: by which means they subjected that ancient and naturally domestick prerogative to an externall and unbefitting Judicature. For although differences in divorce about Dowries, Jointures, and the like, besides the punishing of adultery, ought not to passe without referring, if need be, to the Magistrate, yet that the absolute and finall hindring of divorce cannot belong to any civill or earthly power, against the will and consent of both parties, or of the husband alone, some reasons will be here urg'd as shall not need to decline the touch. But first I shal recite what hath bin already yeilded by others in favour of this opinion. *Grosius* and many more agree that notwithstanding what Christ spake therein to the conscience, the Magistrate is not thereby enjoynd ought against the preservation of civill peace, of equity, and of convenience. Among these *Fagius* is most remarkable, and gives the same liberty of pronouncing divorce to the Christian Magistrate, as the Mosaick had. *For whatever saith he, Christ spake to the regenerate, the Judge hath to deal with the vulgar: if therefore any through hardnesse of heart will not be a tolerable wife or husband, it will be lawfull as well now as of old to passe the bill of divorce, not by privat, but by publick authority. Nor doth man separate them then, but God by his law of divorce giv'n by Moses. What can hinder the* Magistrate



Magistrate from so doing, to whose government all outward things are subject, to separate and remove from perpetuall vexation and no small danger, those bodies whose minds are already separate: it being his office to procure peaceable and convenient living in the Common-wealth; and being at certain also, that they so necessarily separated cannot all receive a single life. And this I observe that our Divines do generally condemn separation of bed and board, without the liberty of second choice: if that therefore in some cases be most purely necessary, as who so blockish to deny, then is this also as needfull. Thus far by others is already well stept, to inform us that divorce is not a matter of Law but of Charity: if there remain a fur-long yet to end the question, these following reasons may serve to gain it with any apprehension not too unlearned, or too wayward. First because oftentimes the causes of seeking divorce reside so deeply in the radicall and innocent affections of nature, as is not within the diocesis of Law to tamper with. Other relations may aptly enough be held together by a civil and vertuous love. But the duties of man and wife are such as are chiefly conversant in that love, which is most ancient and meerly naturall; whose two prime statutes are to joyn it self to that which is good and acceptable and friendly; and to turn aside and depart from what is disagreeable, displeasing and unlike: of the two this latter is the strongest, and most equall to be regarded: for although a man may often be unjust in seeking that which he loves, yet he can never be unjust or blamable in retiring from his endlesse trouble and distast, whenas his tarrying can redound to no true content on either side. Hate is of all things the mightiest divider, nay, is division it self. To couple hatred therefore, though wedlock try all her golden links, and borrow to her aid all the iron manacles and fetters of Law, it does but seek to twist a rope of sand, which was a task, they say, that pos'd the divell. And that sluggish feind in hell *Onus*, whom the Poems tell of, brought his idle cordage to as good effect, which never serv'd to bind with, but to feed the Assle that stood at his elbow. And that the restrictive Law against divorce, attains as little to bind any thing truly in a disjoynted marriage, or to keep it bound, but serves only to feed the ignorance, and definitive impertinence of a doltish Canon, were no absurd allusion. To hinder therefore those deep and serious regresses of nature in a reasonable soul parting from that mistak'n help which he justly seeks in a person created for him, recollecting himself from an unmeet help which was never meant, and to detain him by compulsion in such a unpredestin'd mi-

fery as this, is in diameter against both nature and institution: but to interpose a jurisdictional power over the inward and irremediable disposition of man, to command love and sympathy, to forbid dislike against the guileless instinct of nature, is not within the Province of any Law to reach, and were indeed an uncommodious rudeness, nor a just power: for that Law may baude with nature, and traverse her sage motions, was an error in *Calicles* the Rhetorician, whom *Socrates* from high principles confutes in *Plato's Gorgias*. If therefore divorce may be so naturall, and that Law and Nature are not to go contrary, then to forbid divorce compulively, is not onely against nature, but against law.

Next it must be remember'd that all law is for some good that may be frequently attain'd, without the admixture of a worse inconvenience; and therefore many grosse faults, as ingratitude and the like, which are too far within the soul, to be cur'd by constraint of law, are left only to be wrought on by conscience and perswasion. Which made *Aristotle* in the 10th of his *Ethicks* to *Nicomachus*, aim at a kind of division of law into private or perswasive, and publick or compulsive. Hence it is that the law forbidding divorce, never attains to any good end of such prohibition, but rather multiplies evil. For if natures resistlesse sway in love or hate be once compell'd, it grows carelesse of it self, vitious, uselesse to friend, unserviceable and spiritlesse to the Common-wealth. Which *Moses* rightly foresaw, and all wise Law-givers that ever knew man, what kind of creature he was. The Parliament also and Clergy of England were not ignorant of this, when they consented that *Harry* the 8th might put away his *Queen Anne of Cleve*, whom he could not like after he had been wdded half a year; unlesse it were that contrary to the proverb, they made a necessity of that which might have been a vertue in them to do. For ev'n the freedome and eminence of mans creation gives him to be a Law in this matter to himself, being the head of the other Sex which was made for him: whom therefore though he ought not to injure, yet neither should he be forc't to retain in society to his own overthrow, nor to hear any judge therein above himself. It being also an unseemly affront to the sequestr'd and vail'd modesty of that sex, to have her displeasingnesse and other concealments bandied up and down, and aggravated in open Court by those hir'd masters of tongue-sence. Such uncomely exigences it befell no lesse a Majesty then *Henry* the eighth to be reduc't to; who finding just reason in his conscience to forgo his

his brothers wife, after many indignities of being deluded, and made a boy of by those his two Cardinall Judges, was constrain'd at last for want of other proof that she had been carnally known by Prince Arthur, ev'n to uncover the nakednesse of that vertuous Lady, and to recite openly the obscene evidence of his brothers Chamberlain. Yet it pleas'd God to make him see all the tyranny of Rome, by discovering this which they exercis'd over divorce; and to make him the beginner of a reformation to this whole Kingdom by first asserting into his *familiar* power the right of just divorce. Tis true, an adulteresse cannot be sham'd enough by any publick proceeding: but that woman whose honour is not appeach't, is lesse injur'd by a silent dismission, being otherwise not illiberally dealt with, then to endure a clamouring debate of utterlesse things, in a busines of that civill secrecy and difficult discerning, as not to be over-much question'd by neerest friends. Which drew that answer from the greatest and worthiest Roman of his time *Paulus Emilius*, being demanded why he would put away his wife for no visible reason, *This Shoo*, said he, and held it out on his foot, *is a neat shoo, a new shoo, and yet none of you know where it wrings me*: much lesse by the unfamiliar cognisance of a feed gamester can such a private difference be examin'd, neither ought it.

Again, if Law aim at the firm establishment and preservation of matrimonial faith, we know that cannot thrive under violent means, but is the more violated. It is not when two unfortunately met are by the Canon forc't to draw in that yoke an unmercifull dayes work of sorrow till death unharnesse'em, that then the Law keeps marriage most unviolated and unbrok'n: but when the Law takes order that marriage be accountant and responsible to perform that society, whether it be religious, civill, or corporall, which may be conscionably requir'd and claim'd therein, or else to be dissolv'd if it cannot be undergone: This is to make marriage most indissoluble, by making it a just and equall dealer, a performer of those due helps which instituted the covenant, being otherwise a most unjust contract, and no more to be maintain'd under tuition of law, then the vilest fraud, or cheat, or theft that may be committed. But because this is such a secret kind of fraud or theft, as cannot be discern'd by law, but only by the plaintife himself, therefore to divorce was never counted a politicall or civill offence neither to Jew nor Gentile, nor by any judicall intendment of Christ, further then could be discern'd to transgresse the allowance of *Moses*, which was of necessity so large, that it doth all one as if it

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sent back the matter undeterminable at law, & intractable by rough dealing, to have instructions and admonitions bestow'd about it by them whose spirituall office is to adjure and to denounce, and so left to the conscience. The Law can only appoint the just and equall conditions of divorce, and is to look how it is an injury to the divorcer, which in truth it can be none, as a meer separation; for if she consent, wherein has the Law to right her? or consent not; then is it either just, and so deserv'd; or if unjust, such in all likelihood was the divorcer, and to part from an unjust man is a happinesse, and no injury to be lamented. But suppose it be an injury, the Law is not able to amend it, unless she think it other then a miserable redress to return back from whence she was expelled, or but intreated to be gone, or else to live a-part still married without marriage, a married widow. Last, if it be to chasten the divorcer, what Law punishes a deed which is not morall, but natural, a deed which cannot certainly be found to be an injury, or how can it be punish'd by prohibiting the divorce, but that the innocent must equally partake both in the shame and in the smart. So that which way soever we look the Law can to no rationall purpose forbid divorce, it can only take care that the conditions of divorce be not injurious. Thus then we see the triall of law how impertinent it is to this question of divorce, how helpelesse next, and then how hurtfull.

## CHAP. XXII.

*The last Reason, why divorce is not to be restrained by Law, it being against the Law of nature and of Nations. The larger proof whereof referred to Mr. Seldens Book De jure naturali & gentium. An objection of Paræus answered. How it ought to be ordered by the Church. That this will not breed any worse inconvenience nor so bad as is now suffered.*

**T**Herfore the last Reason why it should not be, is the example we have, not only from the noblest and wisest Common-wealths, guided by the clearest light of human knowledge, but also from the divine testimonies of God himself, lawgiving in person to a sanctify'd people. That all this is true, who so desires to know at large with least pains, and expects not heer overlong rehearsals of that which is by others already so judiciously gather'd, let him hasten to be acquainted with that noble volume written by our learned *Selden*, *Of the Law of nature and of Nations*, a work more usefull and more worthy to be perus'd, whosever studies to be a great man in wisdom, equity, and justice, then all those decretals, and summes sum, which the Pontificall Clerke have

have doted on, ever since that unfortunat mother famously sinn'd thrice, and di'd impenitent of her bringing into the world those two misbegotten infants, and for ever infants *Lombard* and *Gratian*, him the compiler of Canon iniquity, tother the *Tubalcain* of scholastick Sophistry, whose overspreading *barbarism* hath not only infus'd their own bastardy upon the fruitfulest part of human learning; not only dissipated and dejected the clear light of nature in us, and of Nations, but hath tainted also the fountains of divine Doctrine, and render'd the pure and solid Law of God unbeneficial to us by their calumnious dunceries. Yet this Law which their unskilfulnesse hath made liable to all ignominy, the purity and wisdom of this Law shall be the buckler of our dispute. Liberty of divorce we claim not, we think not but from this Law; the dignity, the faith, the authority thereof is now grown among Christians, O astonishment! a labour of no mean difficulty and envy to defend. That it should not be counted a faltring dispenſe, a flattering permission of sin, the bill of adultery, a snare, is the expence of all this apology. And all that we solieite is, that it may be suffer'd to stand in the place where God set it amidst the firmament of his holy Laws to shine, as it was wont, upon the weaknesse and errors of men perishing els in the sincerity of their honest purposes: for certain there is no memory of whordoms and adulteries left among us now, when this warranted freedom of Gods own giving is made dangerous and discarded for a scrowle of licence. It must be your suffrages and Votes, O Englishmen, that this exploded decree of God and *Moses* may scape, and come off fair without the censure of a shamefull abrogating: which, if yonder Sun ride sure, and mean not to break word with us to morrow, was never yet abrogated by our Saviour. Give sentence, if you please, that the frivolous Canon may reverse the infallible judgement of *Moses* and his great director. Or if it be the reformed writers, whose doctrine perswades this rather, their reasons I dare affirm are all silent, unless it be only this. *Parents* on the Corinthians would prove that hardnes of heart in divorce is no more now to be permitted, but to be amerced with fine and imprisonment. I am not willing to discover the forgettings of reverend men, yet here I must. What article or clause of the whole new Covenant can *Parents* bring to exasperat the judicall Law, upon any infirmity under the Gospel? (I say infirmity, for if it were the high hand of sin, the Law as little would have endur'd it as the Gospel) it would not stretch to the dividing of an inheritance; it refus'd to condemn adultery, not that these

these things should not be don at Law, but to shew that the Gospel hath not the least influence upon judiciall Courts, much lesse to make them sharper, and more heavy; lest of all to arraine before a temporall Judge that which the Law without summons acquitted. But saith he, the law was the time of youth, under violent affections, the Gospel in us is mature age, and ought to subdue affections. True, and so ought the Law too, if they be found inordinat, and not meely naturall and blameles. Next I distinguish that the time of the Law is compar'd to youth, and pupillage in respect of the ceremoniall part, which led the Jews as children through corporal and garish rudiments, until the fulnes of time should reveal to them the higher lessons of faith and redemption, This is not meant of the moral part, therein it soberly concern'd them not to be babies, but to be men in good earnest: the sad and awfull majesty of that Law was not to be jested with, to bring a bearded nonage with lascivious dispensations before that throne, had bin a leud affront. as it is now a grosse mistake. But what discipline is this *Parens* to nourish violent affections in youth, by cockring and wanton indulgences, and to chastise them in mature age with a boyish rod of correction. How much more coherent is it to Scripture, that the Law as a strict Schoolmaster should have punisht every trespassse without indulgence so banefull to youth, and that the Gospel should now correct that by admonition and reproof only, in free and mature age, which was punisht with stripes in the childhood and bondage of the Law. What therefore it allowd then so fairly, much lesse is to be whipt now, especially in penall Courts: and if it ought now to trouble the conscience, why did that angry accuser and condemner Law repreeve it? So then, neither from *Moses* nor from Christ hath the Magistrate any authority to proceed against it. But what? Shall then the disposall of that power return again to the master of family? Wherefore not? Since God there put it, and the presumptuous Canon thence bereft it. This only must be provided, that the ancient manner be observ'd in presence of the Minister & other grave selected Elders; who after they shall have admonisht & prest upon him the words of our Saviour, and he shall have protested in the faith of the eternal Gospel, and the hope he has of happy resurrection, that otherwise then thus he cannot do, and thinks himself, & this his case not contain'd in that prohibition of divorce which Christ pronounc't, the matter not being of malice, but of nature, and so not capable of reconciling, to constrain him further were to unchristen him, to unman him, to throw the moun-



tain of  *Sinai*  upon him, with the weight of the whole Law to boot, flat against the liberty and essence of the Gospel, and yet nothing available either to the sanctity of marriage, the good of husband, wife, or children, nothing profitable either to Church or Commonwealth; but hurtfull and pernicious to all these respects. But this will bring in confusion. Yet these cautious mistrusters might consider, that what they thus object, lights not upon this book, but upon that which I engage against them, the book of God, and of  *Moses* , with all the wisdom and providence which had forecast the worst of confusion that could succeed, and yet thought fit of such a permission. But let them be of good cheer, it wrought so little disorder among the Jews, that from  *Moses*  till after the captivity, not one of the Prophets thought it worth rebuking; for that of  *Malachy*  well lookt into, will appeare to be, not against divorcing, but rather against keeping strange Concubines, to the vexation of their  *Hebrew*  wives. If therefore we Christians may be thought as good and tractable as the Jews were, and certainly the prohibitors of divorce presume us to be better, then lesse confusion is to bee fear'd for this among us, then was among them. If wee bee worse, or but as bad, which lamentable examples confirm we are, then have we more, or at least as much need of, this permitted law, as they to whom God therefore gave it (as they say) under a harsher covenant. Let not therefore the frailty of man goe on thus inventing needlesse troubles to it self, to groan under the false imagination of a strictnes never impos'd from above; enjoying that for duty which is an impossible & vain supererogating.  *Be not righteous overmuch, is the counsell of Ecclesiastes, why shouldst thou destroy thy selfe?*  Let us not be thus over-curious to strain at  *atoms* , and yet to stop every vent and cranny of permissive liberty; lest nature wanting those needfull pores, and breathing places which God hath not debar'd our weaknesse, either suddenly break out into some wide rupture of open vice, and frantick heresie, or else inwardly fester with repining and blasphemous thoughts, under an unreasonable and fruitlesse rigor of unwarranted law. Against which evils nothing can more besseem the religion of the Church, or the wisdom of the State, then to consider timely and provide. And in so doing, let them not doubt but they shall vindicate the misreputed honour of God and his great Lawgiver, by suffering him to give his own laws according to the condition of mans nature best known to him, without the unsufferable  
 tion of dispensing legally with many ages of ratify'd adul-

tery. They shall recover the misattended words of Christ to the sincerity of their true sence from manifold contradictions, and shall open them with the key of charity. Many helpes Christians they shall raise from the depth of sadness and distresse, utterly unfitted, as they are, to serve God or man: many they shall reclaime from obscure and giddy sects, many regain from dissolute and brutish licence, many from desperate hardnes, if ever that were justly pleaded. They shall set free many daughters of *Israel*, not wanting much of her sad plight *whom Satan had bound eighteen years*. Man they shall restore to his just dignity, and prerogative in nature, preferring the souls free peace before the promiscuous draining of a carnall rage. Mariage from a perilous hazard and snare, they shall reduce to bee a more certain hav'n and retirement of happy society; when they shall judge according to God and *Moses*, and how not then according to Christ? when they shall judge it more wisdom and goodnes to break that covenant seemingly and keep it really, then by compulsion of law to keep it seemingly, and by compulsion of blamles nature to break it really, at least if it were ever truly joyn'd. The vigor of discipline they may then turn with better successe upon the profluturity loosenes of the times, when men finding in themselves the infirmities of former ages, shall not be constrain'd above the gift of God in them, to unprofitable and impossible observances never requir'd from the civilest, the wisest, the holiest Nations, whose other excellencies in morall vertue they never yet could equall. Last of all, to those whose mind still is to maintain textuall restriction, whereof the bare sound cannot consist sometimes with humanity, much lesse with charity, I would ever answer by putting them in remembrance of a command above all commands, which they seem to have forgot, and who spake it: in comparison whereof this which they to exact, is but a petty and subordinate precept. *Let them goe* therefore with whom I am loath to couple them, yet they will needs run into the same blindnes with the Pharisees, *let them goe* therefore and consider well what this lesson means, *I will have mercy and not sacrifice*; for on that saying all the Law and Prophets depend, much more the Gospel whose end and excellence is mercy and peace: Or if they cannot learn that, how will they hear this, which yet I shall not doubt to leave with them as a conclusion: That God the Son hath put all other things under his own feet; but his Commandments hee hath left all under the feet of Charity.

The end.

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